



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes OPL, MNDC, FF

Basis for Review Consideration

Section 79(2) of the Residential Tenancy Act (Act) states that a party to the dispute may apply for a review of the decision. The application must contain reasons to support one or more of the grounds for review:

1. A party was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control.
2. A party has new and relevant evidence that was not available at the time of the original hearing.
3. A party has evidence that the director's decision or order was obtained by fraud.

Applicant's Submission

The application for review consideration states the decision should be reviewed on all three grounds.

On the first ground for review, the tenant stated that he did not receive notice of the claim and hearing via registered mail because the landlord has not granted the tenant access to the mailbox for the past 3 months.

Analysis

I find that the tenant was unable to attend the hearing due to circumstances beyond his control and I grant the tenant a new hearing. As the tenant has been successful on the first ground for review, it is unnecessary to address the remaining grounds for review.

Conclusion

I order that a new hearing take place and I order that the decision and order(s) made on September 10, 2013 are suspended pending completion of the new hearing.

Notice of time and date of the hearing are included with this Review Consideration Decision for the tenant to serve the landlord within 3 days of receipt of the Notice of Hearing. The tenant must also serve a copy of this decision on the landlord.

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the new hearing. Fact sheets are available at <http://www.rto.gov.bc.ca/content/publications/factSheets.aspx> that explain evidence and service requirements. If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

Because the tenant did not receive a copy of the landlord's original application for dispute resolution, I direct the landlord to serve the tenant with a copy of the application for dispute resolution and all evidence she submitted for the original hearing.

Failure to attend the hearing at the scheduled time and to meet deadlines for the submission and service of evidence will result in a decision being made on the basis of information before the Arbitrator and the testimony of the party in attendance at the hearing.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 19, 2013