



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Introduction

Division 2, Section 79(2) under the *Residential Tenancy Act* says 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.

REVIEW DECISION

The applicant has applied on the grounds that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control. The applicant has stated that he had a medical situation arise that could not be anticipated and was unable to attend the hearing. The applicant has provided a doctor's note that states he was unable to attend work or court matters for this medical situation.

The dispute resolution hearing process is one that is done by teleconference. The applicants' doctors' note does not specify if the applicant was unable to participate in a phone conference. It is noteworthy that even if I did accept the tenants reason for not attending, the tenant has not provided any evidence as to how the outcome would be different.

Section 81 of the Act clearly addresses this matter as follows:

81 (1) At any time after an application for review of a decision or order of the director is made, the director may dismiss or refuse to consider the application for one or more of the following reasons:

- (a) the issue raised by the application can be dealt with by a correction, clarification or otherwise under section 78 *[correction or clarification of decisions or orders]*;
- (b) the application
 - (i) does not give full particulars of the issues submitted for review or of the evidence on which the applicant intends to rely,
 - (ii) does not disclose sufficient evidence of a ground for the review,
 - (iii) **discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied,** or
 - (iv) is frivolous or an abuse of process;

Based on all of the above I am not satisfied that the applicant has provided sufficient evidence to have a review hearing conducted.

The decision and order made on September 3, 2013 stands.

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

Residential Tenancy Branch