



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: DRI MNDC O OLC PSF

Introduction

This is an application by the tenant for a review of a decision rendered by an Arbitrator on June 17, 2013 (the original decision), with respect to an application for dispute resolution by the tenant. The Arbitrator dismissed the tenant's application without leave to reapply when the tenant did not participate in the teleconference hearing of her application.

An Arbitrator may dismiss or refuse to consider an application for review for one or more of the following reasons:

- the application does not give full particulars of the issues submitted for review or of the evidence on which the applicant intends to rely;
- the application does not disclose sufficient evidence of a ground for review;
- the application discloses no basis on which, even if the submission in the application were accepted, the decision or order of the arbitrator should be set aside or varied;

Issues

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.

The tenant applied for a review on basis that she was unable to attend the original hearing because of circumstance that could not have been anticipated and were beyond her control, the first of the grounds listed above.

Facts and Analysis

In order to meet this test, the application must establish that the circumstances which led to the inability to attend the hearing were both:

- beyond the control of the applicant, and
- could not be anticipated.

In her application, the applicant stated that she could not attend the hearing because she received a call on the morning of the hearing that her cat was at the local animal shelter and had to be picked up before 4:00 p.m., or she would be charged an extra \$35.00 for an overnight stay at the shelter. She maintained that she had to take two buses to pick up a cheque to pay the impound fee at the shelter and retrieve her cat. Although she planned to call into the teleconference hearing, she explained that she copied the wrong phone number into her day planner and had not brought the original paperwork (i.e., the Notice of Hearing) with her.

While I can appreciate that the tenant wanted to avoid an additional impound fee to retrieve her cat on the day of the hearing, I find that she was responsible for copying the incorrect phone number into her day planner. With proper care, she could either have copied the correct phone number or could have brought the Notice of Hearing containing that information with her when she left her home. Under these circumstances, I find that the tenant did not demonstrate due care in ensuring that she could participate in the teleconference hearing. For these reasons, I find that the tenant's application for review has not disclosed sufficient evidence of a ground for review. The original decision rendered in this matter is therefore confirmed.

Decision

The decision made on June 17, 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: July 22, 2013

Residential Tenancy Branch