



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

REVIEW CONSIDERATION DECISION

Dispute Codes CNC, MNDC

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 the ground of unable to attend. This matter was originally scheduled to be heard on August 01, 2013 and was adjourned at the tenant's request to be heard on September 17, 2013. The applicant for review states that he did not receive the notice of hearing for the reconvened hearing and called in using his access codes from the hearing on August 01, 2013. Since he used the incorrect codes, he was unable to attend the hearing by conference call.

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 his application for review, the applicant states that he did not receive the notice of hearing. Upon review of the file, it is possible that the notice of hearing was not received by the applicant and therefore, I grant the tenant's application for leave for review. The review hearing will be conducted by conference call. The parties will be notified of the date of the review hearing by the Residential Tenancy Office. Failure to attend the hearing at the scheduled time, with all relevant evidence and/or witnesses, will result in a decision being made on the basis of any information before the Arbitrator and the testimony of the party in attendance at the hearing.

Conclusion

I order that a new hearing take place and I order that the decision and order made on September 17, 2013 are suspended pending completion of the new 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: October 01, 2013