



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: ERP MNDC OLC RP

Introduction

On August 12, 2013, a hearing was conducted to resolve a dispute between these two parties. The respondent/landlord did not attend the hearing. The Arbitrator conducted the hearing and granted the tenant a monetary order. The landlord has applied for a review of this decision.

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 applicant relies on sections 79(2)(a) of the *Residential Tenancy Act* (the "Act").

Issues

Was the landlord unable to attend the hearing because of circumstances that could not be anticipated and were beyond her control?

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 the application for review, the applicant stated that she did not receive the notice of hearing in a timely manner because it was initially sent to the wrong address. Upon review of the file, the address for the landlord as written by the tenant in her application is not the address of the rental office of the corporate landlord. The tenant sent the notice of hearing by registered mail, but when it got returned to the tenant, the tenant served the documents to the landlord's corporate office address. The landlord agreed

that she had received the documents on August 02, 2013, but did not have sufficient notice to plan for the hearing. The landlord has an assigned person who deals with these matters and the person had already left on vacation.

Therefore, I grant the landlord's application for leave for review. I hereby order that the decision dated August 27, 2013 be suspended until a review hearing has been completed.

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. The landlord must provide to the tenant copies of the relevant information and/or documents to which she may refer at the hearing. Service must be by registered mail or personal service.

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.

Decision

The decision dated August 27, 2013 is suspended until a review hearing has been completed.

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 29, 2013

Residential Tenancy Branch