



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Pursuant to Division 2, Section 79(2) of the Residential Tenancy Act, SBC 2002, c. 78, as amended.

Introduction

The tenant has applied for a review consideration of a decision dated October 17, 2013, dismissing the tenant's application and granting the landlord an order of possession.

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 has applied on ground 1 for the Review Consideration

Issues

1. Was the tenant unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control?

Facts and Analysis

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

- beyond the control of the applicant; and
- not anticipated.

A dispute resolution hearing is a formal, legal process and parties should take reasonable steps to ensure that they will be in attendance at the hearing. This ground is

not intended to permit a matter to be reopened if a party, through the exercise of reasonable planning, could have attended.

The tenant writes in her application that she was unable to attend the hearing because “in the process of having a mental Breakdown dOW to previous issues”

[Reproduced as written]

In this case, the tenant claims that she was on the verge of having a mental break down and submits a business card of a physician, and indicated that a note is available upon request. However, it is the applicant responsibility to provided supporting evidence, such as hospital records, clinical reports or any other medical evidence to support that a medical emergency occurred which prevented them from attending the hearing.

I find the tenant has failed to provide sufficient evidence that they were unable to attend the original hearing due to circumstances that were beyond their control and not anticipated. As a result, I dismiss their application for review consideration.

Decision

Based on the above, the application and on a balance of probabilities, I find the landlord’s application must be dismissed.

Therefore, I find the decision and orders made on October 17, 2013, stand and remain in full force and effect. The tenant’s application for review is dismissed.

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 30, 2013

Residential Tenancy Branch