



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW CONSIDERATION DECISION**

Dispute Codes MNDC, MNSD

### Basis for Review Consideration

The Landlord has applied for Review Consideration of the Decision and Monetary order granted on September 17, 2013.

The Landlord has also applied for an extension of time to file this Application. Under the Act the Landlord had 15 days to apply for a Review, from the date he was served with the Decision and Order. The Landlord states he was served on October 30, 2013, and the Application shows it was received by the Branch on November 13, 2013, some 14 days later. I find the Landlord applied within the time limit required and therefore, no extension of time is necessary.

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.

The application for review consideration states the decision should be reviewed on the first and second ground above.

### Issues

Does the Applicant have evidence to prove they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control?

Does the Applicant have new and relevant evidence that was not available at the time of the original hearing?

#### Applicant's Submission

Under the first ground, the Applicant states he tried to call into the hearing and no connection was made. The Landlord references a different file number, which is a different Application than the decision and order under review.

Under the second ground, the Applicant writes that, "We didn't have [the Tenant's] address took us while to find out.", and again the Applicant references a different file number.

#### Analysis

Based on the above, the record and the Decision and Order, I find that I must dismiss this Application, without leave to reapply.

The Decision clearly sets out that the Applicant Landlord was in attendance at the hearing along with a translator. The Decision also references testimony given by the Applicant Landlord at the hearing. While the Applicant Landlord may not have been able to attend the different hearing for the different file number he mentions, that is not the matter before me. Therefore, I find the Applicant Landlord did attend this hearing and the Application for Review Consideration must fail on this first ground.

As to the second ground, I find the Applicant Landlord has provided insufficient evidence that he did not have the address for the Respondent Tenant. The Decision is clear in that the Landlord was served with the Tenant's Application, and that evidence from the Tenant was also served on the Landlord by registered mail. The Landlord did not argue during the hearing in which they participated that they did not have the address for the Tenant.

Therefore, I find the Landlord must have had the address for the Tenant in the Application made by the Tenant. This leads me to find the Landlord has not proven this was new or relevant evidence unavailable to him at the time of the original hearing.

Conclusion

For the above reasons, I dismiss the Application for Review Consideration. The original decision made on September 17, 2013 is confirmed and remains in full force and effect.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: November 19, 2013

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Residential Tenancy Branch

