



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

*Pursuant to Division 2, Section 72(2) of the Manufactured Home Park Tenancy Act, SBC 2002, c. 78, as amended.*

### Introduction

This Review Application was filed by the tenant on November 21, 2013, seeking a Review Consideration of the Order dated October 28, 2013 and received by the tenant on November 8, 2013. The Decision granted the landlord a Monetary Order in the amount of \$1,550.00.

Division 2, Section 72(2) under the *Manufactured Home Park Tenancy Act* says a party to the dispute may apply for a review of a 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 the first ground.

### Issue

- Has the tenant provided sufficient evidence that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control?

### Facts and Analysis

The Application contains information under section C1, on why the tenant could not attend the original hearing held on October 28, 2013.

The tenant writes in his Application:

“I had moved to another location, and during the move, I misplaced the order. I remembered the date and time, but misunderstood. I thought that I would receive a call and I waited around all day for the call to come. When it did not come, I thought he had dropped the order (cancelled it)”

[Reproduced as written]

The tenant submitted four pages in evidence.

### Decision

Based on the above, the Application submitted, and on a balance of probabilities, I find the following.

The tenant confirms in his Application that he was aware of the date and time but misunderstood as he misplaced the “order”, which would be the Notice of a Dispute Resolution Hearing (the “Notice of Hearing”) in this matter. The tenant writes that he thought he would receive a call and “waited around all day for the call to come”.

The Notice of Hearing document contains the access codes and instructions for the parties to call into the teleconference hearing immediately below the date and time of the scheduled hearing. The tenant writes that he “remembered the date and time” of the hearing. I find it unlikely that the tenant would recall the date and time of the hearing yet would not recall or have read the instructions immediately below the date and time of the scheduled hearing which explains how to call into the teleconference hearing.

Based on the above, I find the tenant has provided insufficient evidence to support that he was unable to attend the original hearing because of circumstances that could not be

anticipated and were beyond his control. As a result, **I dismiss** the tenant's Review Application due to insufficient evidence. At the very least, the tenant should have contacted the Residential Tenancy Branch immediately upon realizing he misplaced the Notice of a Dispute Resolution Hearing document.

As I have dismissed the tenant's Review Application, the Decision and Monetary Order dated October 28, 2013 **stands 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 *Manufactured Home Park Tenancy Act*.

Dated: November 28, 2013