



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## Review Consideration Decision

**Dispute codes:** MNR OPR

### **Introduction**

This is an application filed by the tenant for review of a decision of an Arbitrator, dated November 13, 2013. Pursuant to a direct request proceeding, where the attendance of neither party is required, an order of possession and a monetary order were issued in favour of the landlord.

Division 2, Section 79(2) of the *Residential Tenancy Act* provides 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.

### **Issues**

By way of ticks in boxes, the application identifies all 3 of the above grounds for the application, however, text in the application is limited to grounds # 1 and # 3.

### **Facts and Analysis**

Having considered the information in the tenant's application, I find that there is a convoluted set of circumstances surrounding the tenancy and the relationship between the tenant, the landlord and the unit owner. For example, while there appears to be a tenancy agreement between the landlord and the tenant for the term July 1 to October 30, 2013, there also appears to be a tenancy agreement between the tenant and the unit owner for the term October 1, 2013 to September 30, 2014, as well as a tenancy agreement between the landlord and the unit owner for the term November 15, 2012 to November 1, 2013. And while the tenant acknowledges putting a stop payment on the rent cheque to the landlord for October, she claims she paid that rent to the owner.

Following from the above, I therefore grant the tenant's application for review. I hereby order that the decision and orders dated November 13, 2013 be suspended pending the outcome of a review hearing.

The review will be conducted by telephone conference call. Under separate cover, the Branch will notify the parties of the time and date of the review hearing. Both parties must provide the Branch and each other with copies of all documentation on which they intend to rely. Service must be either in-person or by way of registered mail.

Failure to attend at the scheduled time, with all relevant documentation and / or witnesses, will result in a decision being made on the basis of information before the Arbitrator, in addition to the testimony of the parties in attendance at the hearing.

### **Decision**

The decision and orders dated November 13, 2013 are all hereby 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: November 21, 2013