



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute codes: ERP MNDC MNR OLC RP RR

### Introduction

On November 6, 2013 a dispute resolution hearing was conducted to resolve a dispute between these two parties. The Tenant had applied for various remedies including monetary compensation as well as orders for repairs. The Tenant did not attend. The Landlord attended in response. The Tenant's application was dismissed without leave to reapply. The Tenants have now applied for 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.

### Issues

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

The application contains information under Reasons Number 1.

The applicant states that they called into the 3:00 pm hearing by conference call and waited. The applicant states that they waited over one hour, but the operator kept saying, "You are the only recipient on this call." The applicant states that they eventually hung up at approximately 5:45 pm. The applicant also wrote, "Often I have trouble understanding things, and find this all very confusing. On November 6, 2013, I

used the access code for the hearing scheduled for December 10, 2013, and because of that, was not connected to the correct hearing.”

I find based upon the applicant’s own evidence that they called into the wrong hearing using a code for a different hearing from a different date. This is supported by the Telus log notes which clearly indicate that the Arbitrator was on the line with the Landlord in the original hearing for 11 minutes without the Tenant attending. The admission by the applicant is something clearly that could be avoided and anticipated by using the proper code for the correct hearing for the correct date. The Tenant’s Application does not meet the standard for circumstances that could not be anticipated and were beyond their control. The request for review is denied.

### Decision

The request for review is denied.

The decision made on November 6, 2013 stands.

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 20, 2013

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Residential Tenancy Branch