



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes MND, MNSD, FF

Basis for Review Consideration

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.

Applicant's Submission

The application for review consideration states the decision should be reviewed on the first and third grounds.

On the first ground for review, the tenant stated that she did not receive notice of the claim and hearing. The decision shows that the landlord sent the application for dispute resolution and notice of hearing to the tenant via registered mail.

Analysis

The landlord's application shows the tenant's address as being on 25th Avenue whereas the tenant's application for review shows her address being on King Edward Avenue. I find it more likely than not that the landlord sent the registered letter containing information about the claim and the hearing to the wrong address. I find that the tenant was unable to attend the hearing due to circumstances beyond her control and I grant the tenant a new hearing. As the tenant has been successful on the first ground for review, it is unnecessary to address the remaining ground for review.

Conclusion

I order that a new hearing take place and I order that the decision and order(s) made on November 8, 2013 are suspended pending completion of the new hearing.

Notice of time and date of the hearing are included with this Review Consideration Decision for the tenant to serve the landlord within 3 days of receipt of the Notice of Hearing. The tenant must also serve a copy of this decision on the landlord.

Each party must serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the new hearing.

Because the tenant did not receive a copy of the landlord's original application for dispute resolution, I direct the landlord to serve the tenant with a copy of the application for dispute resolution and all evidence submitted for the original hearing.

Failure to attend the hearing at the scheduled time and to meet deadlines for the submission and service of evidence will result in a decision being made on the basis of information before the Arbitrator and the testimony of the party in attendance at the hearing.

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: December 24, 2013

Residential Tenancy Branch

