



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Review Consideration Decision

Dispute Codes: CNC CNR MNSD RR

Introduction

This is an application by the tenant for a review of a decision and order of the director dated January 7, 2014.

The tenant applied for a review on the ground that he was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond his control.

Issues

Has the tenant provided sufficient evidence to establish that he was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond his control?

Facts and Analysis

Original Hearing and Decision

The original hearing convened on January 7, 2014, pursuant to applications by the tenant and the landlord. The landlord attended the hearing, but the tenant did not.

In the decision dated January 7, 2014, the arbitrator dismissed the tenant's application without leave to reapply, and granted the landlord an order of possession and a monetary order.

Review Applicant's Submissions

In the application for review, the tenant submitted that he did not attend the hearing for two reasons: first, the hearing was originally scheduled for January 24, 2014 but was subsequently rescheduled for January 7, 2014, and the tenant's advocate was on vacation the week prior and was unaware that the hearing had been rescheduled; second, the tenant was unable to attend the hearing because his aunt had just passed

away that morning. The tenant's advocate submitted a letter in the tenant's application for review, in which the advocate indicated that the tenant attended at their office on January 7, 2014 and stated that he could not attend the hearing that day because of his aunt's death. The advocate also indicated in their letter that the tenant could not provide any proof of this death "since a legal Death Certificate usually takes 1-2 months to be issued."

Analysis on Review

I find that the tenant has failed to establish that he was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond his control.

The tenant clearly was aware that the hearing had been rescheduled to January 7, 2014, as demonstrated in the advocate's letter. Whether the tenant's advocate was aware of and prepared for the hearing is not relevant.

The tenant or an agent or advocate for the tenant could have called in to the teleconference hearing and requested an adjournment because of his aunt's unexpected death, but they did not do so. Further, I do not accept the advocate's submission that the tenant was unable to provide any proof of his aunt's death. A legal death certificate would not necessarily have been required as evidence; further, I do not find it likely that it would take one to two months for a death certificate to be issued.

Decision

I dismiss the application for review and confirm the original decision and orders of January 7, 2014.

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: January 16, 2014

Residential Tenancy Branch