



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: MNDC MNSD

### Introduction

On January 10, 2014 Arbitrator XXXXX provided a decision on the tenant's Application for Dispute Resolution seeking a monetary order. The hearing had been conducted on January 10, 2014.

That decision dismissed the tenant's Application, **with leave to reapply**. The tenant did not request an extension of time to apply for Review Consideration.

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.

The tenant submits in his Application for Review Consideration that he was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond his control.

### Issues

It must first be determined if the tenant has submitted his Application for Review Consideration within the legislated time frames required for reviews.

If the tenant has submitted his Application within the required time frames it must be decided whether he is entitled to have the decision of January 10, 2014 suspended with a new hearing granted because he has provided sufficient evidence to establish that he was unable to attend the hearing for unexpected reasons that were beyond his control.

### Facts and Analysis

Section 80 of the *Act* stipulates that a party must make an Application for Review Consideration of a decision or order within 15 days after a copy of the decision or order

is received by the party, if the decision does not relate to a matter of possession of the rental unit; a notice to end tenancy; withholding consent to sublet; repairs or maintenance or services and facilities.

From the decision of January 10, 2014 the issues before the Arbitrator were related to the tenant's claim for damages and return of his security deposit. As such, I find the decision and order the tenant is requesting a review on allowed 15 days to file his Application for Review Consideration.

From the tenant's submission he received the January 10, 2014 decision on January 13, 2014 and filed his Application for Review Consideration with the Residential Tenancy Branch on January 13, 2014 (the same day of receipt of the decision). I find the tenant has filed his Application for Review Consideration within the required timelines.

The tenant submits that he was ill at the time of the original hearing and that he had attended hospital by way of the emergency ward. In support of his Application for Review Consideration the tenant has submitted a photocopy of what appears to be a hospital band that provides the tenant's name, birth date, and age. The band also has a series of other unidentified numbers.

The band does not however provide any information as to where it is from, i.e. it does not indicate if the band is from a hospital or any other place. The band also does not indicate any dates on it at all and therefore I cannot determine whether or not the tenant was hospitalized or if he was what dates he may have been hospitalized.

### Decision

For the reasons noted above I dismiss the tenant's Application for Review Consideration.

The decision made on January 10, 2014 stands. However, I note that the original decision granted the tenant leave to reapply. As such, the tenant does not require a new granted by review consideration he can simply submit a new Application for Dispute Resolution on the same matters that had been dismissed (with leave to reapply) in the original 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: January 14, 2014