



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Review Consideration Decision

Dispute Codes: FF MNDC MNSD

Introduction

The tenant has applied for a review of the decision of an Arbitrator dated December 3, 2013.

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 has applied for review on the basis of the first ground.

Issues

Is the tenant entitled to a review of the original decision in this matter based on the first ground?

Facts and Analysis

The original hearing of this matter was held on December 3, 2013. Both the landlord and the tenant had filed applications and they were scheduled to be heard at the same time.

The tenant's application was for return of double the security deposit. The landlord had made an application for a monetary order.

The tenant's application was dismissed without leave to reapply based on her non-appearance and the landlord's application was dismissed with leave to reapply on the basis that the landlord had not adequately proved service of the hearing documents.

In her application for review, the tenant has explained that she missed the hearing due to the death of her 16 year old dog the night before the hearing. The tenant provided evidence in support of this explanation and explained that she had had full intention of being present for the hearing.

Based on the information before me, I am satisfied that the tenant has provided sufficient evidence of the first ground for review and that a new hearing should be held in respect of the tenant's claim.

Decision

I order that a new hearing take place and I order that the decision dated December 3, 2013 be suspended until that hearing is completed.

Notice of time and date of the hearing are included with this Review Consideration Decision for the tenant to serve on the landlord within 3 days of receipt of the Notice of 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.

Although the tenant has provided evidence with her application for review consideration, she must serve a copy of that evidence 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.

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 21, 2014

Residential Tenancy Branch