



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Review Consideration Decision

Dispute Codes: FF MNR MNSD OPR

Introduction

The tenant has applied for a review of the decision of Arbitrator dated January 6, 2014.

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.

In this case, the tenant has applied for a review on the basis of the first ground.

Issues

Is the tenant entitled to a review based on the first ground?

Facts and Background

The tenant has applied for a review hearing on the basis that she called into the hearing and sat there for 20 minutes with nobody else showing up. The hearing was scheduled to commence at 3:00 p.m. and the tenant claims that she called in at 2:59 p.m. The tenant claims that she called in from (604) ###-####. However, a Post Call Completion Report issued by Telus Conferencing Solutions has been provided by the Residential Tenancy Branch with respect to this hearing and that Report indicates that the tenant did not call into the conference call until 3:24 p.m. and stayed on the line for 6 seconds.

This information from Telus directly contradicts the tenant's submissions as to the time she called into the conference.

Analysis

The first ground of review requires that a party was unable to attend because of circumstances that could not be anticipated and were beyond the party's control. In the present case, the tenant knew there was a hearing but apparently failed to call in on time. The hearing started at 3:00 p.m. but the Telus report shows that the tenant did not call in until 3:24 p.m. Obviously the conference call had been completed by that time and the tenant had missed it. While I understand the tenant's disappointment at missing the hearing, I cannot find that the reason for her failure to attend was due to circumstances that were beyond her control. Accordingly, I find that the tenant has not provided sufficient evidence of this ground for review.

Decision

The tenant's application is dismissed.

The decision made on January 6, 2014 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: January 28, 2014

Residential Tenancy Branch