



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF OPC

Introduction

The Applicant/Tenant applies for review of the decision on the basis that the Tenant was unable to attend the Hearing.

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.

Issues

Is the Tenant entitled to a review hearing?

Facts and Analysis

The Tenant submits that due to illness the Tenant was unable to attend the Hearing. The Tenant provided a physician's note. The Tenant also notes "no letter of hearing" and that the Tenant could possibly have attended the hearing "with physician and file". It is noted in the Decision that subject of the dispute was a one month notice to end tenancy for cause and that the Tenant did not make an application to dispute this notice.

Section 81 of the Act provides that an application for review may be dismissed where it discloses no basis on which, even if the submissions in the application were accepted,

the decision or order of the director should be set aside or varied. Section 47 of the Act provides that where a tenant does not dispute a notice to end tenancy the tenant is conclusively presumed to have accepted that the tenancy ends on the effective day of the notice. Even if the Tenant was unable to attend the hearing given that the Tenant did not dispute the notice to end tenancy, there would be no basis to set aside the Decision due to the **conclusive** presumption of the end of the tenancy. I therefore dismiss the application for review.

Decision

The decision made on December 11, 2013 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: December 23, 2013

Residential Tenancy Branch