



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW CONSIDERATION DECISION**

Dispute Codes: FF MNR MNSD

This is an application by the landlord to review the decision and orders of an arbitrator dated January 8, 2014 relating to the above-noted rental unit.

I refer to section 79(2) of the Act which provides that a decision or order of the director may be reviewed only on one or more of the following grounds:

- a. A party was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control;
- b. A party has new and relevant evidence that was not available at the time of the original hearing;
- c. A party has evidence that the director's decision or order was obtained by fraud.

The landlord applied for a review on the basis of the first ground, namely: that she was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond his control. In the application the landlord claimed as follows: "I could not have anticipated that the telephone system would not allow us to enter the hearing despite out best attempts.."

Residential Tenancy Policy guideline No. 24 sets out policy with respect to grounds for review of a decision. With respect to inability to attend a hearing the guideline states:

### **Unable to attend**

In order to meet this test, the application and supporting evidence must establish that the circumstances which led to the inability to attend the hearing were both:

beyond the control of the applicant, and  
not anticipated.

A dispute resolution hearing is a formal, legal process and parties should take reasonable steps to ensure that they will be in attendance at the hearing. This ground is not intended to permit a matter to be reopened if a party, through the exercise of reasonable planning, could have attended.

Together with the landlord's Application for Review Consideration, I was provided with the record of calls made to the conference call hearing on January 8, 2014. The hearing was scheduled to commence at 9:00 A.M. The telephone records show that the arbitrator and the tenant called into the hearing at 8:59 A.M. and 9:01 A.M. The hearing lasted for 22 minutes before it was closed at 9:23 A.M. The telephone records show that the landlord first attempted to call into the hearing at 9:27 A.M., after the hearing had been concluded. The records show that she then made five more unsuccessful attempts to call into the hearing.

The hearing was the hearing of the landlord's application as well as the tenant's application. The landlord did not call into the hearing at the scheduled time; she called in almost one half hour after the scheduled time and this is the reason she was unable to enter the hearing. The landlord's failure to call into the hearing at the appointed time is not a ground for allowing this review application. I find that the landlord has not established that she was unable to attend the hearing because of circumstances that were beyond her control and not anticipated. The application for review is therefore dismissed.

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 30, 2014

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Residential Tenancy Branch

