



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW CONSIDERATION DECISION**

Dispute Codes: CNR FF MNDC OLC RR

### **Introduction**

The applicant (tenant) applies for review of a Decision dated January 07, 2014 of an application by the tenant heard January 06, 2014 at 9:30 a.m. in which the landlord attended, but the applicant tenant did not attend. In the result, the landlord was provided with an Order of Possession. Division 2, Section 79(2) under the *Residential Tenancy Act* (the 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 applicant relies on the first ground for review.

### **Issues**

Does the applicant advance sufficient evidence in support of their stated ground for Review?

### **Facts and Analysis**

The applicant submitted their application for Review which was not accompanied by other document evidence as purported by the application details. The applicant states that they were unable to attend the original hearing as follows:

*"I am a Brittle diabetic insulin dependent, starting Jan 4, 2014 my blood sugars rose to 30.8 and continued to be dangerously high until around the 11 of Jan. I have a monitor that records my blood sugars if need to be seen, as I suffer from Random highs and lows it was my husband who attended my well being during this time".*

It must be noted that in order to be successful in their application on the first ground, the applicant for Review must establish that they were:

- unable to attend the hearing, and,

- that the circumstances for being unable to attend the hearing could not be anticipated, and,
- that such circumstances were beyond the party's control.

An arbitration hearing is a formal, legal process and parties should take reasonable steps to ensure that they can participate in such a hearing. The burden of establishing their claims on Review is the responsibility of the applicant. It must be noted that in this type of application it is not sufficient to only state circumstances as they may have impacted on one's ability to attend the hearing. I am not satisfied that the statement provided by the applicant is, on its own, sufficient to establish their claim that they were unable to attend the original hearing because of circumstances not anticipated and beyond the party's control.

As a result, I find the applicant has not provided sufficient evidence establishing they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control. The application does not contain sufficient ground for a Review and the application must fail. **I dismiss** the application for Review, and **I confirm** the original Decision and Orders dated January 07, 2014.

**The Decision made on January 07, 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 20, 2014

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Residential Tenancy Branch