



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes OPR, OPB, MNR

Basis for Review Consideration

Section 79(2) of the Residential Tenancy Act (Act) states that 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.

Applicant's Submission

The application for review consideration states the decision should be reviewed on the ground of the tenant having been unable to attend the hearing and on the basis of new and relevant evidence.

In her application for review, the tenant stated that she was not served with the application for dispute resolution and notice of hearing. The evidence shows that the tenant vacated the rental unit near the end of July, around the same time that the landlord said she served the application for dispute resolution and notice of hearing to the tenant via registered mail sent to the rental unit.

Analysis

I find it likely that the tenant did not receive notice of the hearing or the claim against her because she was no longer living in the rental unit at the time the documents were sent there. I find that the tenant has proven that she was unable to attend the hearing due to circumstances beyond her control.

Conclusion

I order that a new hearing take place and I order that the decision and order made on December 2, 2013 be suspended pending completion of the new hearing.

Notice of time and date of the hearing are included with this Review Consideration Decision for the tenant to serve 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.

As the tenant did not receive notice of the landlord's claim, **I direct the landlord to serve on the tenant the application for dispute resolution and any evidence on which the landlord intends to rely in the hearing. This service should occur within 3 days of the date the landlord receives the notice of hearing from the tenant.**

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 24, 2014

Residential Tenancy Branch

