



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNSD O

Introduction

A dispute resolution hearing was held on December 3, 2013 by conference call, and a decision and order were issued on the same date.

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

The issue is whether or not the applicants were unable to attend the original hearing due to circumstances that could not be anticipated and were beyond the applicant's control.

Facts and Analysis

The application contains information under Reasons Number 1

The applicants state that when they applied for dispute resolution they were given a hearing letter that states that the hearing was on January 29, 2014, and that they were never notified of a new date.

The applicants also state that when the landlord serve his hearing package on them, the only hearing letter in the hearing package was a copy of their hearing letter with the same date of January 29, 2014.

The applicant's therefore state that they were unaware of any hearing being held on December 3, 2013, and therefore where unable to attend due to circumstances that were totally beyond their control.

I have reviewed the two files in question, and I find that there has been two different hearing letters issued as stated above, one for January 29, 2014, and one for December 3, 2013.

It's therefore my decision that I accept the applicant's claim that they were unaware of the December 3, 2013 hearing date and were expecting their hearing to be held on January 29, 2014.

Decision

It's my finding that the applicants were unable to attend the original hearing due to circumstances that were beyond their control and could not be reasonably anticipated and therefore I allow the request for a review hearing.

The decision and Order from the original hearing are hereby suspended and I have sent a request to scheduling to have a reviewed hearing scheduled for as soon as possible.

New hearing letters will be sent to all parties, however within three days of receiving the new notice of hearing letter, the applicant/tenants must serve a copy of that letter on the respondent/landlord, along with a copy of this decision, and all the information they provided with their application for review.

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 02, 2014

Residential Tenancy Branch