



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes MNDC, OLC, FF

Introduction

This was a review hearing ordered to be conducted by decision dated July 2, 2014. The original hearing, which was the hearing of the tenant's application for a monetary order and an order that the landlord comply with the *Residential Tenancy Act*, was conducted by conference call on June 19, 2014. The tenant did not call into the conference call hearing, however the landlord did attend and the tenant's application was dismissed without leave to reapply.

The tenant applied for review consideration of the decision dismissing his application. In a decision dated July 2, 2014, the tenant's Review Consideration Application was allowed on the ground that the tenant had been unable to attend the original hearing due to circumstances that could not be anticipated and were beyond his control. A review was ordered to be conducted by holding a new hearing of the original application. The arbitrator who granted the review said in the decision as follows:

In accordance with Section 81 of the Act, I Order that within 3 days of receiving this Decision the tenant must serve on the landlord a copy of this Decision to proceed with a Review, and the accompanying Notice of Review Hearing, setting out the new date and time for the reconvened hearing.

Notices of the Review Hearing are included with this Decision, as well as a copy of this Decision for service on the Landlord.

At the review hearing the tenant said that he sent the Review Consideration Decision and Notice of Review Hearing to the landlord by ordinary mail. The tenant provided no documentary evidence to support his testimony that the documents had been mailed.

Analysis and conclusion

Section 89 (1) of the *Residential Tenancy Act* provides that an application for dispute resolution, **or a decision to proceed with a review** must be given to a landlord by leaving a copy with the landlord, or with an agent of the landlord, or by sending a copy by registered mail to the address at which the person carries on business as a landlord. The Act defines “registered mail” as follows:

"registered mail" includes any method of mail delivery provided by Canada Post for which confirmation of delivery to a named person is available.

The method of the delivery chosen by the applicant is not a method authorized by section 89 of the Act and it does not meet the definition of “registered mail” contained in the Act. Section 89 is mandatory; it provides that a decision to proceed with a review must be given in one of the ways provided. In the absence of proof of service of the Review Consideration Decision and the Notice of Review Hearing, the tenant’s application for review is denied and the original decision dated June 19, 2014 is confirmed.

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: October 01, 2014

Residential Tenancy Branch