



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Introduction

This application was filed by the tenant, requesting a review consideration of the Decision made on December 8, 2014, which dismissed the tenant's application and granted the landlord an order of possession.

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.

The tenant has applied based on ground 1 and 2 for review consideration.

Issues

1. Was the tenant unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control?
2. Does the tenant have new and relevant evidence that was not available at the time of the original hearing?

Facts and Analysis

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.

The tenant writes in their application they were unable to attend the hearing,

“my phone was not working...I do not know why my phone doesn’t wrk sometimes”

[Reproduced as written]

In this case, the tenant new of the hearing date and new his phone does not work sometimes. I find it was not beyond the tenant control to take reasonable steps to ensure his phone was working or alternatively make arrangement to use another phone. I find the tenant has failed to prove ground 1 for review consideration.

Although the tenant has applied on ground 2 for review consideration, the only submission made is the same as noted above regarding his phone. I find the tenant submission is not new or relevant evidence as defined in the Residential Tenancy Policy Guideline #24.

In light of the above, I find the tenant’s application for review consideration must be dismissed.

Decision

Based on the above, the application and on a balance of probabilities, I find the tenant’s application must be dismissed.

Therefore, I find the decision and orders made on December 8, 2014, stand and remain in full force and effect. The tenant’s application for review is 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: December 19, 2014

Residential Tenancy Branch