



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR-DR, OPR-DR, FFL

### Introduction

This decision pertains to a review hearing that was convened on April 1, 2022, as ordered by a review consideration decision (pursuant to section 79 of the *Residential Tenancy Act*) dated December 29, 2021. The review consideration decision was made after the respondent tenant filed an application for review on December 20, 2021 in respect of a direct request decision and orders dated December 14, 2021.

A review hearing is essentially a new hearing, and the onus remains on the party who made the initial application for dispute resolution. In this case, the onus would have been on the landlord to prove any claim made in their application.

### Preliminary Issue: Non-Attendance of Landlord

The tenant, along with an occupational therapist, attended the hearing on April 1, 2022. The hearing began at 11:00 AM. Also in attendance was a witness (S.M.) for the landlord. However, the witness made it clear that he was not acting as agent for the landlord. The landlord failed to attend the hearing, of which ended at 11:08 AM.

To reiterate: the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

As the landlord did not attend the hearing it follows that they have not met the onus of proving any of their claims made in their application of November 3, 2021. Accordingly, the landlord's application for compensation and for an order of possession is dismissed without leave to reapply. (It is noted, for the record, that the tenant vacated the rental unit on March 31, 2022.)

Conclusion

**The landlord's application is dismissed, without leave to reapply.**

**The decision and orders dated December 14, 2021 are hereby set aside.**

This decision is final and binding on the parties, and it is made on delegated authority under section 9.1(1) of the Act. A party's right to appeal the decision is limited to review grounds provided under section 79 of the Act or by way of an application for judicial review under the *Judicial Review Procedure Act*, RSBC 1996, c. 241.

Dated: April 1, 2022

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Residential Tenancy Branch