



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNR RR

Introduction

On August 23, 2011 a hearing was conducted to resolve a dispute between these two parties. The tenant had applied for the cost of emergency repairs, money owed or compensation due to damage or loss, to allow a tenant to reduce rent for repairs and recovery of the filing fee. The Dispute Resolution Officer ruled in favour of the tenant and awarded the tenant compensation for emergency repairs and a rent reduction until all repairs are completed by the landlord. The landlord has applied for a review of this decision.

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:

- a) A party was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control.
- b) A party has new and relevant evidence that was not available at the time of the original hearing.
- c) A party has evidence that the director's decision or order was obtained by fraud.

The applicant relies on section 79(2)(a) of the *Residential Tenancy Act* (the "Act") which provides that the director may grant leave for review if a party has new and relevant evidence that was not available at the time of the original hearing.

Issues

Does the landlord have evidence that he was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control.

Facts and Analysis

Unable to attend the original hearing

The landlord stated that he call in to the hearing and was put on hold for 45 minutes but was unable to connect. The Telus report shows 3 callers connecting in to the hearing with one number being the Dispute Resolution Officer's, one being the tenant's and the

third the landlord's. The Telus report shows that the Dispute Resolution Officer connected in to the 1:30 hearing at 1:30, the tenant connected in to the 1:30 hearing at 1:28 and the landlord connected in to the the 1:30 hearing at 1:48.

To connected in to a hearing the parties are to call in no later than 10 minutes after the scheduled start time and in this instance the landlord did not call in to the hearing until 18 minutes after the start time which prevented the landlord from being able to connect in to the conference call. As a party named in a dispute it was the landlord's responsibility to be available and ready to call in to the conference call at the scheduled time of the hearing. The landlord makes no assertion as to why he was not available and ready at 1:30.

Accordingly, I find that the claim that the landlord was unable to attend is unproven, it will make no difference to the final decision.

Conclusion

The original decision of September 28, 2011 is upheld.

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 24, 2011

Residential Tenancy Branch