



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC

### **Introduction**

This is an application by the Tenant for a review of a Decision rendered by a Dispute Resolution Officer (DRO) on October 17, 2011 with respect to an application for dispute resolution filed by the Landlord.

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 Tenant applied for a review on the basis of the first ground listed above.

### **Facts and Analysis**

The Landlord's application for a Monetary Order for unpaid rent and bank charges was heard on October 17, 2011. At the outset of the hearing, the Dispute Resolution Officer found that the Tenant had been properly served with a copy of the Landlord's application and Notice of Hearing. In the written submissions to his application, the Tenant claims that he was unable to attend the hearing for the following reason:

"due to my position at work I was attending to clients that became unavoidable as I am a Manager at W.C.F."

RTB Policy Guideline #24 (Review Consideration) states at p. 1 that:

“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 could not be 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.”

I find that the Tenant’s reason for not attending the dispute resolution hearing on October 17, 2011 does not satisfy the test under the first ground of review. In particular, I find that the Tenant’s work obligations were not a circumstance that could not have been anticipated or that were beyond his control. Instead I find that it was within the Tenant’s control through the exercise of reasonable planning to ensure that he did not have work or other responsibilities to perform during the time scheduled for the hearing.

### Decision

Consequently, I find pursuant to s. 81(1)(b)(iii) of the Act that the Tenant’s application does not disclose sufficient evidence of a ground for Review and it is dismissed without leave to reapply. The Decision and Order made on October 17, 2011 remain in force and effect.

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: November 09, 2011.

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Residential Tenancy Branch