



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MND MNDC MNSD O

### Introduction

This is an application by the Landlord for a review of a decision rendered by a Dispute Resolution Officer on August 16, 2012 with respect to an application for dispute resolution filed by the Landlord for a Monetary Order for damages to the rental unit and to keep a security deposit and a pet damage deposit. The Landlord did not attend the hearing via conference call and her application was dismissed without leave to reapply. The Tenants were granted a Monetary Order for \$1800.00 representing double the amount of the security deposit and pet damage deposit.

### Issues

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 Landlord applied for a Review on the 1<sup>st</sup> ground.

### Facts and Analysis

RTB Policy Guideline #24 (Review Consideration of a Decision or Order) states at p. 1 that "in order to meet this test, the application and supporting evidence must establish that the circumstances that led to the inability to attend the hearing were both beyond the control of the applicant and could not have been anticipated.

In the written submissions to the Landlord's application for review, she stated, "my mother passed away unexpectedly in Regina, Saskatchewan. Death Certificate attached." The Landlord submitted a copy of a Funeral Director's Certificate of Death for one, J.H., who passed away on July 6, 2012.

Although the Landlord's mother's death on July 6, 2012 may have been unexpected, I find that it was not a circumstance that prevented her from attending the hearing on August 16, 2012, six weeks later. I find that it would have been prudent for the Landlord during this 6 week period to either request an adjournment of the hearing either in advance or to have her agent named on her application (or another person) attend the hearing on her behalf to request an adjournment. The Landlord provided no reason why she did not seek an adjournment or have the agent named on her application attend the hearing on her behalf. Furthermore, the Landlord provided no written submissions as to what evidence she would have provided at the hearing had she attended which is also required as part of the review application.

### Decision

The Landlord's review application is dismissed without leave to reapply pursuant to s. 81(1)(ii) of the Act on the ground that it does not disclose sufficient evidence of a ground for review. Consequently, the Decision and Order made August 16, 2012 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: August 30, 2012.

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Residential Tenancy Branch