

REVIEW DECISION

This is an application for review filed on February 13, 2009 by the tenants for the review of a Decision and an Order dated February 2, 2009 and received according to the Applicants for Review on February 10, 2009.

The applicants rely on section 79(2)(b) of the *Residential Tenancy 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.

In their application, the tenants listed the following items as new and relevant evidence.

1. Contrary to what the landlords claimed in the hearing, the landlords did receive the tenants' application for dispute resolution and signed for it.
2. "They changed the contract after the fact". The tenant provided no further explanation for the above.
3. The tenants maintained that they suffered loss of quiet enjoyment of the property caused by problems with mold, lack of heat, landlords' inspections without notice and neighbors spying on them.
4. "Breaking into the property and trespassing". The tenants provided no further explanation for the above.

The tenants gave two reasons as to why the above evidence was not available at the time of the hearing. The first reason was that they moved out of the property. The second reason was not legible.

Based on the above, I find insufficient evidence to indicate the above evidence was new and not available at the time of the hearing. Accordingly, I find that the tenants have not provided any new and relevant evidence that was not available at the time of the original hearing.

The applicants also rely on section 79(2)(c) of the *Residential Tenancy Act* which provides that the director may grant leave for review if a party has evidence that the dispute resolution officer's decision or order was obtained by fraud.

The tenants said that the landlords provided them with "doctored" copy of invoices. In alleging fraud, the tenants must allege and prove new and material facts that were not known to them at the time of the hearing. In this case, the tenants were served with all of the evidence which the dispute officer relied on in reaching her decision. Therefore, I find that the tenants have not proven new and material facts that were not known to them at the time of the hearing.

Based on the above, I find that the tenants have not provided evidence that the dispute resolution officer's decision or order was obtained by fraud.

For the above reasons, I dismiss the application for leave for review. The original decision dated February 2, 2009 is confirmed.

Dated March 13, 2009