

REVIEW DECISION

This is an application for review filed on March 4, 2009 by the tenant for the review of a Decision and an Order dated February 25, 2009 and received according to the Applicant for Review on March 2, 2009.

The applicant relies 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.

The tenant submitted 4 pages of an operating agreement that pertains to his building and page 14 of the Society Act as new and relevant evidence. He explained that due to his wife's illness, he did not have time to prepare these documents for the hearing. Based on the above, I find that the documents were available at the time of the hearing but the applicant did not prepare them for the lack of time. Therefore the tenant has not provided new and relevant evidence that was not available at the time of the original hearing.

The applicant also relies 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 tenant said that the building manager, KM, had lied in his letter dated February 2, 2009 and in his testimony given at the hearing. Specifically, KM said that when he delivered the notice to end tenancy to the tenant, the tenant took the document from him. The tenant maintained that he did not take this document from KM and that KM had provided fraudulent testimony. The tenant was served with the February 2, 2009 letter as part of the dispute resolution application by the landlord. Based on the above, I find that the tenant had known about KM's testimony at the time of the hearing. Therefore, the tenant has 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 25, 2009 is confirmed.

Dated March 12, 2009