

REVIEW DECISION

The Tenants have applied for a review of the Decision and Orders of a Dispute Resolution Officer dated May 10, 2010. The Decision and Orders granted an order of possession and monetary orders to the Landlord.

The Tenants state three grounds in the Application for Review. The first ground is that they were not notified of the dispute. The second ground is that they have new and relevant evidence. I dismiss this portion of the Review Application, as the Decision and Orders were granted through the direct request process. There is no hearing held in this process, rather it is a proceeding done by written application only, and the Dispute Resolution Officer was satisfied that the Tenants were served in accordance with the Act and with Notice of the direct request proceedings. *Evidence submission is not required of the tenant.*

The third ground of Review is that the Decision and Order were obtained by fraud. The Tenants allege that they had an agreement with the owners of the rental unit that they could deduct the cost of emergency repairs from their rent.

I do not find that this is conclusive evidence of fraud on behalf of the Landlords. There is simply not enough information or facts to clearly establish the Landlords were fraudulent.

However, I do find that the Decision and Orders *may* have been different if the Dispute Resolution Officer had this information been before her while making her determinations.

Therefore, I allow the Application for a Review on this basis.

Having accepted the request for a review under section 79, I will not consider all the evidence with respect to the grounds submitted for review in this Application. Those are issues to be dealt with at the hearing in this matter, as described below.

Having granted the Tenants' request for a review, section 82 of the *Act* provides the following:

Review of director's decision or order

82 (1) Unless the director dismisses or refuses to consider an application for a review under section 81, the director must review the decision or order.

(2) The director may conduct a review

(a) based solely on the record of the original dispute resolution proceeding and the written submissions of the parties, if any,

(b) by reconvening the original hearing, or

(c) by holding a new hearing.

(3) Following the review, the director may confirm, vary or set aside the original decision or order.

I order that a new hearing be conducted at which point the merits of the circumstances in the tenancy, including the allegations raised in this Application for Review, can be addressed by both parties.

Therefore, I order that the Decision and Orders dated May 10, 2010, in this matter **be suspended** until such time that a new hearing is conducted and a decision is reached.

I order that this hearing be held by telephone conference call and it be scheduled for the date and time shown in the attached Notice of Hearing.

Pursuant to section 81(4), the Tenants must serve upon the Landlord a copy of this Review Decision and the attached Notice of Hearing within **three (3) days** of receiving this Review Decision.

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: May 13, 2010