

Review Decision

Dispute Codes: MNDC, MNSD

Introduction

A hearing was originally held on October 7, 2010, in response to an application by the tenant for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement, and the double return of the security deposit. The hearing was attended by the tenant and an agent representing the landlord. Subsequently, a decision was issued on October 13, 2010.

Thereafter, on October 29, 2010 the landlord filed an application for review on the basis of all three grounds set out in section 79(2) of the Act. In the result, a review was granted on the limited basis of the landlord's claim that the decision and order were obtained by fraud. Accordingly, a notice of dispute resolution hearing was then mailed by the residential tenancy branch to both parties. The review hearing was scheduled to commence at 9:30 a.m. on December 13, 2010, however, the tenant was the only party in attendance.

The tenant testified that the decision and order dated October 13, 2010, reflect an accurate understanding of the circumstances surrounding his application for dispute resolution. The landlord's successful application for review was supported largely by sworn affidavits. However, neither the landlord, the landlord's agent, nor any of those who swore affidavits appeared at the review hearing.

Section 82 of the Act speaks to **Review of director's decision or order**, and provides in part as follows:

82(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.

On the basis of the record of the original dispute resolution proceeding, and on the basis of the affirmed / undisputed testimony of the tenant at the review hearing, the original decision and order dated October 13, 2010 are hereby confirmed.

DATE: December 13, 2010

Dispute Resolution Officer