



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

**Decision: Leave for Review Denied**  
**Original Decision dated April 4, 2011 confirmed**

## REVIEW DECISION

Dispute Codes: MNDC

This is an application for review filed on April 12, 2011 by the landlord for the review of a decision dated April 4, 2011.

The applicant relies on section 79(2)(c) of the *Residential Tenancy Act* (the "Act") which provides that the director may grant leave for review if a party has evidence that the arbitrator's decision or order was obtained by fraud.

The applicant alleged that the tenant lied when she said she knew her witness for 3 years and alleged that the hearing was procedurally unfair because the dispute resolution officer would not let him respond to the tenant's evidence and did not ask questions about his evidence or ask if he wanted her to telephone his witnesses.

The Act provides very narrow grounds for review and an allegation of procedural unfairness is not among those grounds. The applicant may proceed to judicial review to advance this argument.

In order to establish grounds for review, the applicant must prove that the tenant intentionally committed a fraud and that the dispute resolution officer arrived at her decision as a direct result of this fraud. The tenant may have misrepresented how long she had known her witness, but I find that the decision was not made on that basis. The decision clearly shows that the tenant was successful in her claim because the

landlord had failed to meet the statutory requirement to apply to retain her security deposit within 15 days of the time he received her forwarding address.

As the decision would not have varied even if the alleged fraud had not occurred, I find that the application for review on this ground must fail.

For the above reasons I dismiss the application for leave for review. The original decision dated April 4, 2011 is confirmed.

Dated April 18, 2011

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Dispute Resolution Officer