



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: OPR MNR FF

Introduction

On November 28, 2011 Dispute Resolution Officer (DRO) XXXXXX provided a decision on the landlord's Application for Dispute Resolution seeking an order of possession. The hearing had been conducted on November 28, 2011.

That decision granted the landlord an order of possession.

Division 2, Section 79(2) under the *Residential Tenancy Act* says a party to the dispute may apply for a review of the decision. The application must contain reasons to support one or more of the grounds for review:

1. A party was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control.
2. A party has new and relevant evidence that was not available at the time of the original hearing.
3. A party has evidence that the director's decision or order was obtained by fraud.

The tenant submits in her Application for Review Consideration that she has new and relevant evidence and that the landlord obtained the decision and order by fraud.

Issues

The issues to be decided are whether the tenant is entitled to have the decision of November 28, 2011 set aside and a new hearing granted because she has provided sufficient evidence that she has new and relevant evidence or the original decision was obtained by fraud.

Facts and Analysis

The tenant asserts in her Application for Review that her new and relevant evidence includes:

- Personal statements;
- Witness statement;
- Bank statements;
- Copies of all RTB decisions – confirming harassment;
- Notes posted on her door;
- Additional statements from the tenant;
- Hydro cut illegally; and
- Illegal break and enter and harassment.

The tenant provides no explanation as to why any of this evidence was not available at the time of the hearing on November 28, 2011 or how it is relevant.

The tenant also asserts the statutory declaration submitted by the landlord into evidence and the statements made by the landlord that the tenant's witness was being charged and that the landlord claims he puts packages on her door are fraudulent. The tenant provides no evidence to establish this.

The opportunity for parties to provide evidence in a dispute is at or before a hearing begins. As this hearing resulted from a previous review decision on this matter the tenant has had ample opportunity to provide any evidence that she intent to rely upon at the hearing.

I find the tenant has provided no evidence to support that the listed evidence above was not available to her to be presented at the hearing on November 28, 2011. As such the tenant cannot use the Review Consideration process to have her second opportunity (and in this case her third) to submit evidence that should have been submitted originally.

Further, I find the tenant submits only that the contents of the landlord's declaration and statements are fraudulent and has provided absolutely no evidence to support this claim whatsoever. As such, I find the tenant has failed to establish the landlord or his agent committed any fraud in obtaining the decision or order.

Decision

For the reasons noted above, I dismiss the tenant's Application for Review Consideration.

The decision made on November 28, 2011 stands.

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: December 06, 2011.

Residential Tenancy Branch