



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: AAT MNDC

Introduction

On November 23, 2011 Dispute Resolution Officer (DRO) XXXX provided a decision on the tenant's Application for Dispute Resolution seeking a monetary order in the amount of \$16,800.00. The hearing had been conducted on November 23, 2011.

That decision dismissed the tenant's Application in its entirety without leave to reapply.

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 seeks additional time to make her Application for Review because she states: "Ongoing RCMP investigation File#".

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

It must be decided if the tenant requires and is entitled to additional time to submit her Application for Review Consideration.

The issues to be decided are whether the tenant is entitled to have the decision of November 23, 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's Application for Review Consideration states that she received the decision on November 28, 2011 and that her Application for Review Consideration was received by the Residential Tenancy Branch on December 13, 2011.

As such, I find the tenant submitted her Application for Review Consideration within the allowable 15 days allowed and therefore does not require any additional time to submit her Application. I dismiss this portion of the tenant's Application for Review Consideration.

As to the tenant's claim that she has new and relevant evidence she states that she has a statement regarding the cleanliness of the rental unit upon her departure, however she provides no details as to why this evidence was not available at the time of the original hearing. I therefore find the tenant has failed to establish that this written statement is *new* evidence.

Further, in relation to the tenant's claim of new and relevant evidence she states "RCMP info pending investigation". The tenant does not state what info is pending; why it is pending; when it will be available or how it has any relevance whatsoever to her claim. For this reason, I find the tenant has failed to establish that this evidence is either *new* or *relevant* to her claim.

In relation to the tenant's claim the decision and/or order was obtained by fraud the tenant provided the following 4 points:

1. False info submitted by LG (re: we did not/could not reside in residence for month of September 2011);
2. This was used to force us out;
3. When confronted with hydro being stolen, refused to have this investigated by the hydro company or RCMP; and
4. Immediately after notifying LG I questioned if hydro was being stolen (June 14, 2011), hydro dropped back to what I believe was normal beginning July 2011.

While the tenant makes these statements she provides no evidence of how these statements show that the landlord committed fraud to obtain the decision. In fact, I find these statements to be relevant submissions and positions the tenant could have presented in the original hearing and are not evidence of any fraud. I therefore find the tenant has failed to establish the decision or order was obtained by fraud.

Decision

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

The decision made on November 23, 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 21, 2011.

Residential Tenancy Branch