



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNSD

### Introduction

On December 20, 2011 Dispute Resolution Officer (DRO) XXXX provided a decision on the landlords' Application for Dispute Resolution seeking to retain the security deposit. The hearing had been conducted on December 20, 2011.

That decision dismissed the landlords' Application and granted the tenants a monetary order for double the amount of the security deposit. The landlords submit they received a copy of the decision and order on December 30, 2011.

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 landlords submit in their Application for Review Consideration that they have new and relevant evidence that was not available at the time of the original hearing.

### Issues

The issues to be decided are whether the landlords are entitled to have the decision of December 20, 2011 set aside and a new hearing granted because they have provided sufficient evidence that they have new and relevant evidence that was not available at the time of the original hearing.

### Facts and Analysis

The landlords submitted with their Application for Review Consideration a copy of a written notice that had been sent to the tenants by e-mail to schedule a move out condition inspection. The landlords state that they wish to submit an additional written statement that the tenants had accepted the inspection time as proposed in the e-mail.

The landlords go on to say that they had not submitted this as evidence for the hearing because: "I thought that only the move-in and move-out report was needed." The landlords put forward that because the decision made by DRO XXXX was based, at least in part, on her finding that the landlord had failed to schedule a move out condition inspection, this evidence is relevant to the landlords' case.

Residential Tenancy Policy Guideline #24 states that a new hearing may be granted if the applicant provides sufficient evidence to establish the following 5 points:

1. The applicant has evidence that was not available at the time of the original hearing;
2. The evidence is new;
3. The evidence is relevant to the matter described in the initial application;
4. The evidence is credible; and
5. The evidence would have had a material effect on the original decision.

Based on the landlords' Application for Review Consideration, I accept the evidence submitted by the landlord is relevant to the matter; it is credible; and that it may have had a material effect on the original decision.

However, from the landlords' submission the evidence was not submitted only as through an act of omission based on the landlords' understanding of what would be sufficient evidence to make their claim. From this, I find the evidence was available at the time of the original hearing and is therefore not new evidence.

As a result, I find the landlords have failed to provide sufficient evidence to establish that they have **new** and relevant evidence that was not available at the time of the original hearing.

### Decision

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

The decision made on December 20, 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: January 04, 2012.

---

Residential Tenancy Branch