



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD

Introduction

On December 19, 2011 Dispute Resolution Officer (DRO) XXXXXX provided a decision on the landlord's Application for Dispute Resolution seeking a monetary order for unpaid rent. The hearing had been conducted on December 19, 2011.

That decision granted the landlord authority to retain the tenant's security deposit and a monetary order for the balance of the rent owed. The tenant submits he received a copy of the decision and order on January 27, 2012. The tenant did not request an extension of time to apply for Review Consideration.

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 his Application for Review Consideration that the landlord obtained the decision and order by fraud.

Issues

The issue to be decided is whether the tenant is entitled to have the decision of December 19, 2011 set aside and a new hearing granted because he has provided sufficient evidence that the original decision and order were obtained by fraud.

Facts and Analysis

The tenant submits in his Application for Review Consideration that “TS (landlord) did not admit to going to the Ministry of development, and having me cut off, which I have proof of. (from the Freedom of information act). Also, she intercepted my mail, by way of changing the lock on mailbox, I never received the Decision of the first dispute File# 774584.”

The tenant submitted a copy of a print out from his income assistance file history that shows on August 19, 2011 the landlord contacted the tenant’s Employment and Assistance Worker and told her that she was going to give the tenant a notice to leave and the Worker then removed the tenant’s shelter allowance.

The document goes on to say that the tenant met with another worker on August 24, 2011 and that he will be submitting new shelter “dox” for sept.

To establish a party to a dispute has obtained a decision or order based on fraud the tenants must provide sufficient evidence to establish **all** of the following three points:

1. False information was submitted;
2. The person submitting the evidence knew that it was false; and
3. The false information was used to get the desired outcome.

While I accept the landlord interfered with the tenant’s income assistance file 4 months prior to the hearing, I find the cause of that interference was related to the tenant’s income source and has no bearing on the tenant’s responsibility to pay the landlord rent.

I find that decision of December 19, 2011 makes no mention that DRO XXXXX considered any testimony or evidence regarding the landlord interfering with his income source. As such, I find the tenant has failed to establish that false information was submitted; that the person submitting the evidence (in this case, the landlord) knew any evidence was false; or that any false information was used by the landlord to get a desired outcome.

Decision

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

The decision made on December 19, 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: February 02, 2012.

Residential Tenancy Branch