



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MND MNR MNSD OPR

Introduction

The original hearing was held on March 6, 2012 and a decision and orders were issued on that same date.

Pursuant to Division 2, Section 72(2) of the Manufactured Home Park Tenancy Act, SBC 2002, c. 77., as amended 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.

Issues

Whether or not the applicant was unable to attend the original hearing due to circumstances that could not be anticipated for were beyond his control, and whether or not the original decision was obtained by fraud

Facts and Analysis

The application contains information under Reasons Number 1 & 3

Reason 1

The applicant claims that he was not notified of the conference call, however at the original hearing the Dispute Resolution Officer made a finding that the applicant was properly served with notice of the dispute resolution hearing by personal service.

Therefore I am not willing to grant a new hearing under reason1.

Reason 3

To prove an allegation of fraud the parties must show that there was a deliberate attempt to subvert justice. A party who is applying for review on the basis that the Dispute Resolution Officer's decision was obtained by fraud must provide sufficient evidence to show that false evidence on a material matter was provided to the Dispute Resolution Officer, and that that evidence was a significant factor in the making of the decision. The party alleging fraud must allege and prove new and material facts, or newly discovered and material facts, which were not known to the applicant at the time of the hearing, and which were not before the Dispute Resolution Officer, and from which the Dispute Resolution Officer conducting the review can reasonably conclude that the new evidence, standing alone and unexplained, would support the allegation that the decision or order was obtained by fraud. The burden of proving this issue is on the person applying for the review. If the Dispute Resolution Officer finds that the applicant has met this burden, then the review will be granted.

The applicant is alleging fraud however the applicant has provided no evidence to show that false information was provided to the dispute resolution officer.

In the absence of any evidence that false information was provided to the dispute resolution officer, I am not willing to rent a new hearing under reason 2.

Decision

The request for a new hearing through the review process is dismissed

The decision made on March 6, 2012 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: March 15, 2012.

Residential Tenancy Branch