



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** FF MND MNR MNSD

### **Introduction**

The Decision/Order under review is a decision on the Landlord's Application for Dispute Resolution to issue a Monetary Order for loss of revenue, cleaning costs, and costs associated with re-renting the rental unit. The Hearing was conducted on March 13, 2012. The Tenants submit that they received the Order on March 23, 2012.

Division 2, Section 79(2) of the *Residential Tenancy Act* provides that 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 following 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 Tenants apply for review on the second ground set out above.

### **Issues**

Do the Tenants have **new and relevant** evidence that was not available at the time of the original hearing?

### **Facts and Analysis**

In their Application for Review Consideration, the Tenants indicate:

- 1) Landlord provided no evidence of mitigating loss.
- 2) they are allowing new tenants to pay \$1700 and not \$1950, we were not given chance to market property at this reduced rate,

- 3) calculation of monetary order security deposit was \$975 & not \$575  
(reproduced as written)

In evidence, the Tenants provided a one page summary of attempts they made to re-rent the rental unit and a calculation of what they submit the Monetary Order should have been after applying the correct amount of the security deposit; and copies of e-mails which pre-date the Hearing date.

### **New and Relevant Evidence**

Leave may be granted on this basis if the applicant can prove that:

- he or she has evidence that was **not available at the time of the original arbitration hearing**;
- the evidence is **new**;
- the evidence is relevant to the matter which is before the Dispute Resolution Officer;
- the evidence is credible, and
- the evidence would have had a material effect on the decision of the Dispute Resolution Officer

Only when the applicant has evidence which meets **all five criteria** will a review be granted on this ground.

I find that the Tenants provided no **new** evidence with their application. The documentation provided was **available at the time of the original Hearing**. In points 1 and 2 of their Application for Review, the Tenants appear to be attempting to re-argue what was before the Dispute Resolution Officer at the Hearing. The Application for Review process is not an opportunity to re-argue a case.

In point 3, the Tenants disclose what they believe to be a math or typing error with respect to the amount of the security deposit paid. **This matter can be addressed by filing a Request for Correction.**

### **Conclusion**

I dismiss the Tenants' Application for Review because the Tenants provided no new and relevant evidence that was not available at the time of the Hearing. The original Decision and Orders dated March 13, 2012, are confirmed.

The Tenants' concern with respect to a math or typing error may be addressed by filing a Request for Correction.

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 30, 2012

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Residential Tenancy Branch