



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: CNC FF

### Introduction

This is an application filed by the tenant on April 3, 2012 for review of a Dispute Resolution Officer's decision and order dated March 28, 2012 on the above noted matter.

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.

### Issues

In this application the tenant relies on the third ground: evidence that the decision or order was obtained by fraud.

### Facts and Analysis

The tenant explains in part that the landlord tried to obtain information against her after being served with an eviction notice, and that he manufactured evidence in order to evict the tenant and renovate her suite. The tenant provides a four page letter with events that took place before the original hearing.

Residential Tenancy Policy Guideline #24 addresses the grounds for review. Concerning fraud the guideline states in part:

*"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 the evidence was a significant factor in the making of the decision. The party alleging fraud must allege and prove new 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 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.*

*It is not enough to allege that someone giving evidence for the other side made false statements at the hearing, which were met by a counter-statement by the party applying, and the whole evidence adjudicated upon by the arbitrator. A review hearing will likely not be granted where an arbitrator prefers the evidence of the other side over the evidence of the party applying.”*

The tenant's argument does not constitute new evidence of fraud, and it could have been presented during the original hearing. The review process is not an opportunity to re-argue the case. The tenant did not provide new material facts to support that evidence was obtained by fraud.

Section 81 of the Act provides in part that the director may dismiss or refuse to consider an application for review if the application does not disclose sufficient evidence of a ground for the review.

### Decision

For the above reasons I dismiss the application for review.

The decision and order made on March 28, 2012 stand.

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: April 10, 2012.

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Residential Tenancy Branch