



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: CNC

Introduction

This is an application filed by the tenant on March 27, 2012 for review of a Dispute Resolution Officer's decision and order dated March 20, 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 matter the tenant relies on the third ground: evidence that the decision or order was obtained by fraud.

Facts and Analysis

In her application, the tenant states in part that the landlord waited 3 weeks in February before approaching about the unpaid rent for that month; that the landlord's original form states that rent was not paid for February and March while the form is dated February 22, 2012; that she decided to leave because of the landlord's yelling, rude behaviour and unreasonable requests; and that she requests an extension of 3 days to vacate the rental unit on the strength of the order of possession served on March 26, 2012, with an effective date of two days after the order is served on the tenant.

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.

An application for review does not provide an opportunity to re-argue the case or grant extensions on orders issued to the tenant. The tenant's submissions are arguments that could have been raised during the original hearing. I find that the tenant's application does not disclose sufficient evidence if a ground for review on the basis of fraud.

Decision

The tenant's application is dismissed.

The decision made on March 20th, 2012 is hereby confirmed.

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 02, 2012.

Residential Tenancy Branch