



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNDC MNR MNSD OPR

Introduction

A dispute resolution hearing was held on March 12, 2012 ended decision and order were issued on that same date.

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

Whether or not the original Dispute Resolution Officer's decision was obtained by fraud

Facts and Analysis

The application contains information under Reasons Number 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 claims that she was never served with notice of the hearing; however the Dispute Resolution Officer at the original hearing made a finding that the applicant was served by personal service on February the 23rd and the applicant has not met the burden of proving that this was not the case.

Further the application discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied, as the applicant has not provided any information to show that the rent ordered in the original decision was not outstanding.

Decision

This application for a new hearing under the review process is denied

The decision and orders issued on March 12, 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 25, 2012.

Residential Tenancy Branch