



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNSD

Introduction

The Decision/Order under review is a decision on the Tenant's application for compensation equivalent to double the amount of the security deposit pursuant to the provisions of Section 38(6) of the Act; for compensation for damage or loss under the Act, regulations or tenancy agreement pursuant to the provisions of Section 67 of the Act; and for recovery of the cost of the filing fee from the Landlords. The Tenant's application for double the amount of the security deposit and recovery of the cost of the filing fee was granted and his application for compensation for damage or loss was dismissed.

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 Landlords apply for review on the second ground set out above.

Issues

Do the Landlords 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 Landlords indicate:

“I have clear pictures of the damage and proof there was a 6 month rental agreement that was not considered because I did not file the landlords Application for Dispute Resolution, I am a first time Landlord this application is now filed.”

(reproduced as written)

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 dismiss the Landlords' Application for Review because the evidence provided by the Landlords was available at the time of the original arbitration hearing and is neither new nor relevant to the matter that was before the Dispute Resolution Officer at the Hearing.

The Hearing dealt with the Tenant's application. The Landlords had not filed an Application for damages at the time the Hearing took place. The evidence provided by the Landlords in their Application for Review would not have had a material effect on the decision of the Dispute Resolution Officer.

The original Decision and Orders dated April 19, 2012 are therefore confirmed.

Conclusion

The Landlords' Application for Review Consideration is dismissed.

The original Decision and Orders dated April 19, 2012 are 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: May 2, 2012

Residential Tenancy Branch