



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** FF MNR OPR

### **Introduction**

The Decision/Order under review is a decision on cross applications. The Landlord applied for an Order of Possession and Monetary Order for unpaid rent. The Tenant applied to cancel the Notice to End Tenancy. The matters were heard on April 30, 2012, and a Decision was rendered the same day. The dispute resolution officer found in favour of the Landlord and issued an Order of Possession and a Monetary Order in the amount of \$1,500.00 against the Tenant.

The Tenant submits that he received the Decision and Orders on May 7, 2012, by personal service.

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 Tenant applies for review on the third ground set out above.

### **Issues**

Does the Tenant have evidence that the director's decision or order was obtained by fraud?

### **Facts and Analysis**

In his Application for Review Consideration, the Tenant submits that he lost his job as a result of training for employment that was offered by the Landlord and that the parties

had a verbal agreement that back rent could be paid after he obtained employment. He submitted that the Landlord lied about the order in which things took place. The Tenant submitted that if the dispute resolution officer knew the order in which events took place, his decision would have been different.

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.

The submissions of the Tenant and the Landlord were considered by the dispute resolution officer at the Hearing on April 30, 2012. The Dispute Resolution Officer made findings on the balance of probabilities based on the submissions and testimony of the parties. In his Application for Review Consideration, the Tenant did not disclose any new and material facts that were not known to the Tenant at the time of the Hearing.

**An Application for Review Consideration is not an opportunity to reargue the case.**

I find that the Tenant's application does not disclose sufficient evidence that the Decision and Order were obtained by fraud and therefore I dismiss his application.

### **Conclusion**

The original Decision and Orders dated April 30, 2012, are therefore 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 11, 2012

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Residential Tenancy Branch