



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNSD

Introduction

This is an application filed by the landlord on April 30th, 2012 for review of a Dispute Resolution Officer decision and order dated March 21, 2012.

Issues

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.

In this matter the landlord relies on all three grounds; unable to attend, new and relevant evidence, and decision or order obtained by fraud.

Facts and Analysis

The landlord also applied for an extension of time to make his application for review. Pursuant to Section 80 of the Act the landlord's application was required to be made within 15 days after a copy of the decision was received. The landlord received the decision on April 24, 2012, and submitted his application on April 30th, 2012, which is within the time frame allowed by statute. Therefore it is not necessary that I consider this aspect of the landlord's application, and I will address the grounds for review as stated in this application.

Concerning being unable to attend, the landlord states that he was out of the country from October 30th, 2011 until April 22nd, 2011, and received no notice of an application

for dispute resolution from the tenant. I presume that the landlord made a typographical error and meant April 22nd, 2012.

Concerning new and relevant evidence, the landlord submits that the tenant eventually agreed to complete a move-out inspection report. The landlord provided a copy of the report dated April 20th, 2011, showing that the tenant did not agree with the outcome, and that the tenant gave the landlord her forwarding address.

Concerning fraud, the landlord states that the tenant knows that the landlord goes away in the winter for 6 months and conveniently filed for dispute resolution during his absence. The landlord states that the tenant's statement at the hearing regarding the landlord's failure to contact the tenant and the landlord's refusal to allow the tenant to participate in the condition inspection report are fraudulent statements.

I note that even if I accepted the landlord's application on any grounds, the outcome of this application would not change. At the hearing, the tenant was granted a monetary order for double the amount of the security deposit. The landlord does not dispute the date of the end of the tenancy, and does not dispute that he received the tenant's forwarding address on April 20th, 2011. The decision was made on the basis of Section 38(1) of the Act, which gave the landlord until May 4th, 2011, to either make an application for dispute resolution or return the tenant's security deposit. Section 38(6) of the Act provides in part that if a landlord does not comply with his statutory obligation to return the security deposit within 15 days, the landlord must pay the tenant double the amount of the deposit.

Section 81 of the Act provides that the director may dismiss or refuse to consider an application for review if 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. I find that the decision would not have been different even if the applicant had participated in the hearing.

Decision

For the above stated reasons I dismiss the application for review and the decision made on March 21st, 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: May 07, 2012.

Residential Tenancy Branch