



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: CNC CNL CNR

### Introduction

The Applicant/Tenant applies for review of the decision on the basis that the Tenant was unable to attend the Hearing, has new and relevant evidence and that the decision was obtained by fraud.

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

Is the Tenant entitled to a review of the Decision?

### Facts and Analysis

It is noted that the Decision that is the subject of this review application, is a settlement decision between the Parties, reached during the hearing. The Tenant submits that he was unable to attend the Hearing as he was told by the Advocate not to speak. It is noted that the Tenant did attend the Hearing. The Tenant submits that he has new and relevant evidence in the form of photos and letters and that the Landlord provided false or fraudulent evidence at the Hearing.

Section 81 of the Act provides that an application for review may be dismissed where, inter alia, the application discloses no basis on which, even if the submissions in the application were accepted, the decision should be set aside or varied.

Although the Tenant submits that he was unable to participate in the Hearing, given that the Tenant did appear at the Hearing, I dismiss this part of the application. Although the Tenant submits that there is new and relevant evidence, I find that the evidence referred to by the Tenant is in fact evidence that was available at the time of the Hearing and I dismiss this part of the application. Given that the Decision sets out a mutual settlement agreement between the Parties, the Tenant's submission that fraud occurred is irrelevant as this knowledge was in the Tenant's possession at the time of the hearing when the mutual agreement to settle was reached by the Parties and a review of this information would not change the outcome of a Decision reached by settlement.

### Decision

The Tenant is not entitled to a review and the Decision on April 13, 2012 stands.

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 02, 2012.

---

Residential Tenancy Branch