



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNSD

Introduction

The Applicant/Landlord applies for review of the decision on the basis 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

Was the decision obtained by fraud and if so, should a new hearing be ordered?

Facts and Analysis

The Landlord submits that the Tenant gave false evidence in relation to service of the Notice of Hearing. The Landlord submits that the Decision finds that the notice of hearing was served on the Landlord by registered mail. The Landlord submits however that the notice was sent by priority mail and that this mail was received after the date of the Hearing. The Landlord provided a copy of the priority post envelope and it is noted that this envelope contains the same number noted in the Decision as the tracking number.

Section 81 of the Act provides that an application for review may be dismissed where the application discloses no basis on which, even if the submissions were accepted, the decision should be set aside. While it is clear that the Tenant did not serve the Landlord with a Notice of Hearing by registered mail, given the finding in the Decision that the

Tenant provided his forwarding address on March 6, 2012 and that no refund of the security deposit had been made within 15 days of deemed receipt of the forwarding address, the finding of fraud in relation to service of the Notice of Hearing will not change the outcome of the Decision. As the application does not disclose any other basis on which the decision should be set aside, the Landlord's application is dismissed.

Decision

The Landlord's application is dismissed.

The decision made on April 18, 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 10, 2012.

Residential Tenancy Branch