



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: CNC

Introduction

The Applicant/Tenant applies for review of the decision on the basis of new and relevant evidence.

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 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

Does the Tenant have new and relevant evidence that was not available at the time of the original hearing?

Facts and Analysis

The Tenant submits that

- the Landlord violated the time line to present evidence;
- the Tenant was unable to present new losses and damages;
- the Landlord failed to comply with orders and decisions; and
- more evidence is available to show the allegations and complaints made against the Tenant are false.

The Tenant provided statements in relation to an incident on May 8, 2012 when the Tenant states that the Landlord changed the locks. Given the date and substance of this alleged act, I find that this information is not in relation to and facts or findings contained in the decision but is a separate matter and therefore I am not able to consider this evidence in relation to a review of the decision. The Tenant may wish to consider an application for dispute resolution in relation to this incident.

The Tenant provided statements that appear to be in relation to a fine for a vehicle not being insured. It appears that the fine was given on April 27, 2012, before the date of

the hearing and therefore, whether or not this evidence is relevant, this evidence is not new and therefore not able to be considered for a review.

The Tenant provided a photo of a news paper on a lawn and submits that this is evidence of the condition of the lawn. No date can be determined for this photo and such evidence of the state of the lawn would have been available at the time of the hearing and is therefore not new evidence.

The Tenant provided statements in relation to the complaints made by other tenants and in relation to the character of the complainants. This is not new evidence but argument that could have been made at the hearing.

Finally, the Tenant provided statements in relation to the state of the unit and a request for return of the security deposit. This evidence is not in relation to the Decision but is a new and separate matter.

Section 81 of the Act provides that an application for review may be dismissed where the application does not disclose sufficient evidence of a ground for a review.

As the Tenant has not provided new and relevant evidence that was not available at the time of the hearing, there is no basis upon which to set aside the decision.

Decision

The decision made on November 7, 2011 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 25, 2012.

Residential Tenancy Branch