



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC O

### Introduction

The Applicant/Landlord applies for review of the decision on the basis that the Tenant was unable to attend the Hearing and that the decision was obtained by fraud.

### Issues

Has the Landlord substantiated an inability to attend the hearing?

Has the Landlord substantiated that the decision was obtained by fraud?

### Facts and Analysis

The Landlord submits that he was unable to attend the hearing because he did not know about it. The Landlord acknowledges receiving a registered mail envelope from the Tenant and refusing acceptance of the envelope.

The Landlord submits that the decision was obtained by fraud and points to five areas or findings made in the decision that were based upon the Tenant's undisputed evidence at the hearing.

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.

I find that the Landlord's submission that he refused acceptance of the Tenant's registered mail does not constitute circumstances that could not be anticipated and beyond the Landlord's control. I therefore find that the Landlord has not substantiated the first ground for review.

I find that the Landlord's submissions in relation to fraud are in essence argument and evidence that could have been provided and considered had the Landlord appeared at the Hearing. In particular, the Landlord has not shown that the Tenant's evidence in relation to return of the security deposit was fraudulent; the Landlord only provides rationale for not returning the security deposit. The Landlord has not shown that the unit was used for the stated purpose; the Landlord only provides rationale for why it was not used for the stated purpose. The Landlord does not provide any evidence to support his statement that there was no agreement to replace the windows and shelving or to reimburse the Tenant for appliances; the Landlord only rebuts the Tenant's evidence of such agreements. The Landlord does dispute that the carpet was removed but only provides rationale for its removal. I find therefore that the Landlord has failed to provide evidence that the decision was obtained by fraud. Accordingly, the Landlord's application for review is dismissed.

#### Decision

The Landlord's application for review is dismissed.

The decision made on May 1, 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: June 13, 2012.

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Residential Tenancy Branch