



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Code: CNC

Introduction

The Applicant/Tenant applies for a review on the basis of 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 hearing?

Facts and Analysis

The Tenant submits that for the Hearing the Landlord used photos as evidence that were taken prior to the Tenant removing considerable amounts of property from the unit. Further the Tenant submits that the evidence given by the Landlord of the possibility of frozen pipes is deceptive evidence as the pipes have never frozen in the past 10 years of the tenancy.

Relevant parts of Section 81 of the Act provide as follows:

- (1) At any time after an application for review of a decision or order of the director is made, the director may dismiss or refuse to consider the application for one or more of the following reasons:
 - (b) the application
 - (ii) does not disclose sufficient evidence of a ground for the review

It is noted that the Tenant attended the Hearing, was provided with full opportunity to respond to the evidence of the Landlord and that all of the Tenant's evidence given at the Hearing, including the evidence of property removal, was considered by the Arbitrator. As such, I find that the Tenant has not provided sufficient evidence of fraud and is therefore not entitled to a review hearing.

Decision

The Tenant is not entitled to a review and the Decision made on December 5, 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: December 27, 2012.

Arbitrator
Residential Tenancy Branch