



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: AS FF LRE OLC

This is an application filed by the tenant for review of the January 18, 2013 decision and order of an arbitrator. The decision dismissed the tenant's application for relief, including permission to sublet her manufactured home on a pad in the landlord's manufactured home park. The applicant applied for review on the ground the decision or order was obtained by fraud.

The tenant stated as follows in her Application for Review Consideration:

Landlord (name) evidence is misleading and false. Very few notices ever given and those that were given do not fall under the Rules and Regulations. I am able to get letters from other tenants if required showing that (Name of landlord) served notice that were false about the upkeep of the property. In my opinion the Arbitrator did not review the evidence before making a decision or he would of found misleading information on (name of landlord) behave and that most notices are harassment and not within rules and regulations. Emailed letters from (landlord) with false information. Also subletting forms on the November 21, 2012 and (landlord) sent them back on Nov. 30, 2012. Form from subletting package that was sent to me for the refusal from (landlord) with false information.

The tenant said that the landlord and her manager will change documents and make false notices. She claimed that the notices sent to tenants by the landlord are false.

Apart from a copy of the decision under review, the tenant did not submit any documents in support of her review application.

Apart from claiming that the decision was obtained by fraud, the applicant claimed that the Arbitrator did not review the evidence that was before him.

The Residential Tenancy Policy Guideline #24 concerning Review applications contains the following passage:

A party who is applying for review on the basis that the arbitrator's decision was obtained by fraud must provide sufficient evidence to show that false evidence on a material matter was provided to the arbitrator, and that that evidence was a significant factor in the making of the decision. The party alleging fraud must allege and prove new and material facts, or newly discovered and material facts, which were not known to the applicant at the time of the hearing, and which were not before the arbitrator, and from which the arbitrator conducting the review can reasonably conclude that the new evidence, standing alone and unexplained, would support the allegation that the decision or order was obtained by fraud. The burden of proving this issue is on the person applying for the review. If the arbitrator finds that the applicant has met this burden, then the review will be granted.

The tenant have not alleged any new and material facts. She has accused the landlord of presenting misleading and false evidence and falsifying documents, but she has not provided evidence of specific testimony or of documents with new evidence or documents to demonstrate that fraudulent evidence was given. The review application also includes an assertion that the tenant was not afforded a fair hearing. While the claim that the applicant was denied a fair hearing may provide grounds for an application to the Supreme Court of B.C. for judicial review, it does not constitute a valid ground for review pursuant to my statutory authority under section 79 of the *Residential Tenancy Act*. On the information provided by the tenant I am unable to conclude that the decision was obtained by fraud. The tenants' application for review on the ground that the DRO's decision was obtained by fraud is denied.

For the above reasons I dismiss the application for review. The original decision dated January 18, 2013 is confirmed.

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: February 04, 2013

Residential Tenancy Branch