



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNR

Introduction

The landlord has applied requesting review of the decision issued as the result of the female landlord's application for dispute resolution. The female landlord had applied requesting compensation in the sum of \$10,009.00 for damage or loss under the Act. The application was dismissed.

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

The landlord has applied for review consideration based on the 3rd ground:

A party has evidence that the director's decision or order was obtained by fraud.

Facts and Analysis

The landlord has submitted that the decision issued on January 28, 2013 was obtained by fraud. The application for review contained the following statement:

"This tenant has told me that she knew that I had lost prev. Tenant decision (again with lies). She has lied & harassed me even this a.m."

(Reproduced as written)

No other evidence or submission was contained in the application for review consideration.

Fraud is the intentional “false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive”.

The burden of proving fraud 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.

Other than the statement that the tenant somehow obtained the decision by fraud, the landlord has given no evidence of fraud. Saying the decision was fraudulent does not make it so. The landlord is also referring to a previous decision, which is not within the scope of this application for review consideration.

Decision

In the absence of any evidence that the decision issued on January 28, 2013 was obtained by fraud I find that the application for review consideration is dismissed.

The decision issued on January 28, 2013 is confirmed.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 27, 2013