



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNDC OLC

Introduction

The Applicant/Tenant applies for a review of the Decision on the basis that the Tenant has new and relevant evidence and on the basis of fraud. Although the Tenant also applied for more time to make this review application, as the Tenant received the Decision on February 15, 2013 and made the review on February 18, 2013, I find that the Tenant does not require more time as the application is within the time frame provided.

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

Has the Tenant provided new and relevant evidence?

Has the Tenant provided evidence of fraud?

Is the Tenant entitled to a review hearing?

Facts and Analysis

The Tenant submits that the rent for January 2013 was paid and provided a rent cheque showing this payment. As the Decision deals with a jurisdictional matter, the evidence of rental payment is not relevant.

The Tenant submits that the Landlord held herself out to the Tenant as the “landlord”. The Tenant provided a copy of a government document in which the Landlord signed the document as the “registered owner” of the unit in question. It is noted that the Decision finds that the Landlord is not a “landlord” based on the evidence of the Landlord but is a “tenant” and finds that, as a result, the Act does not have jurisdiction over the dispute between the parties.

Given the document indicating that the Landlord is the registered owner of the unit, I find that the Tenant has provided evidence that the Decision was obtained by fraud. Accordingly, I find that the Tenant is entitled to a review hearing.

I hereby order that the Decision dated January 21, 2013 and amended January 29, 2013 be suspended until a review hearing has been completed.

The review hearing is scheduled for **Tuesday March 19, 2013 at 2:00 p.m.** and will be conducted by telephone conference call.

Failure to attend the hearing at the scheduled time, with all relevant documents and/or witnesses, will result in a decision being made on the basis of any information before the dispute resolution officer and the testimony of the Party in attendance at the hearing.

Notices of the time and date of the hearing are included with this Review Decision for the Tenant to serve to the Landlord within 3 days of receipt of this Decision.

Although the Tenant has provided evidence with his application for review consideration, he must serve a copy of that evidence on the Landlord. Each Party must serve the other and the Residential Tenancy Branch with any evidence that they intend to reply upon at the new hearing.

Decision

The decision made on January 21, 2013 and amended January 29, 2013 is suspended.

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 21, 2013