



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute codes: FF MNR OPR

### Introduction

The 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

Has the Tenant provided evidence that the decision was obtained by fraud?

### Facts and Analysis

The Tenant submits that the Landlord provided fraudulent evidence service of the Notice to End tenancy. The Tenant submits that one copy of the proof of service provided to the Residential Tenancy Branch was different than the copy provided to the Tenant. The Tenant submits that the Tenant could not examine the document received and examined by the Arbitrator. The Tenant submits that the difference between the documents is evidence of fraud. It is noted that the Decision considers the matter of the difference and alteration of the documents and finds it immaterial to the outcome. The Decision makes a finding to accept the Landlord's evidence of service of the Notice based on the lack of credibility of the Tenant.

The Tenant submits that the person attending the Hearing and giving evidence in relation to the service of documents was not the person claimed to be. The Decision finds that the Tenant's evidence was not credible and finds therefore that the service of Notice occurred as stated by the Landlord.

In order to show a decision was obtained by fraud, a party must evidence of three elements:

- False information was submitted at the hearing;
- The person submitting the information knew it was false; and
- The false information was used to obtain the outcome.

Given that the Decision considers the evidence in relation to the different proof of service documents as submitted in this review, the submissions can only be considered re-argument on the findings and argument on procedural errors. As the Act does not provide a review for re-argument of findings or argument on procedural correctness, I find that the Tenant is not entitled to a review based on these submissions.

Given the finding that the service of the Notice occurred as stated by the Landlord, noting the finding that the Tenant's evidence was not credible in coming to this conclusion and noting that the Witness at the hearing did not provide evidence of service of the Notice, I find that the identity of the witness is immaterial to the outcome of the decision. I find therefore that the Tenant has not provided evidence of fraud that was used to obtain the outcome.

### Decision

The Tenant is not entitled to a review and the Decision made on February 22, 2013 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: March 12, 2013

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Residential Tenancy Branch