



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: MNR OPR

### Introduction

The Tenant applies for a review of the Decision 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 rent payable is \$500 and not \$775.00 as provided by the Landlord for the Decision. The Tenant provided a print out of the rent payments made from November 2011, a line in that printout indicating that \$500.00 was paid to the Landlord on January 2, 2013 and a copy of an receipt from the Landlord dated February 21, 2012 indicating that January 2013 rent is paid and that three months rent for February, March and April 2013 was accepted at \$500.00 for each month. The Decision indicated that the Landlord submitted information on a direct request proceeding indicating that rent of \$775.00 for the month of January was unpaid. It is

noted that on this basis the Landlord obtained a monetary order for unpaid January 2013 rent and an order of possession.

In order to show a decision was obtained by fraud, a party must provide 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.

I accept the evidence of the Tenant supports the above three elements and that the Tenant therefore is entitled to a review hearing. I therefore order that the Decision dated February 26, 2013 be suspended until a review hearing has been completed. The review hearing is scheduled for **April 11, 2013 at 10:30 a.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 the application for review consideration, the Tenant 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 Tenant is entitled to a review hearing and the Decision made on February 26, 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: March 12, 2013

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Residential Tenancy Branch