



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: CNC OLC RP

### Introduction

This is an application by the tenant for a review of the decision of the Dispute Resolution Officer dated March 7, 2013 with respect to the outcome of the tenant's unsuccessful application seeking an order to cancel a One-Month Notice to End Tenancy for Cause. The tenant's application was dismissed and the landlord was issued an Order of Possession.

Section 79(2), of the *Residential Tenancy Act*, states that a party to a dispute may apply for a review of the decision. The application for review must contain reasons to support one or more of the following grounds for review:

- a. a party was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control.
- b. a party has new and relevant evidence that was not available at the time of the original hearing.
- c. a party has evidence that the director's decision or order was obtained by fraud.

In this application, the tenant has applied for review under the ground of fraud (c).

### Issues

Has the applicant for review provided sufficient evidence to support the ground for a review?

### Facts and Analysis

#### Evidence

In the application for review consideration in the box marked:

**"Which information submitted for the initial hearing was false and what information would have been true?"**

the tenant provided the following information:

*“insufficient evidence”* (reproduced as written)

Under the heading,

**“How did the person who submitted the information know it was false?”**,

the tenant wrote:

*“Landlord admitted she had no evidence and was unable to prove accusations”*  
(reproduced as written)

Under the heading:

**“How do you think the false information was used to get the desired outcome?”**,

the tenant stated:

*“evidence predated eviction notice”* (reproduced as written)

The tenant provided additional pages of type-written and handwritten evidentiary material including testimony, copies of communications and a submission from a legal advocate dated February 19, 2013.

I find that, before the original hearing was convened, on March 5, 2013, the tenant could have submitted any supportive evidence that she desired. In addition, I find that, during the hearing, the tenant was provided with the opportunity to give testimony, present the evidence and verbally refute any or all of the landlord's submissions pertaining to the above topics. I find that, the tenant's stated position and all of the tenant's arguments were then weighed and duly considered by the arbitrator, as indicated in the decision issued on March 7, 2013.

I find that the tenant's allegation of fraud in this application for review consideration merely consists of objections and arguments on matters that were, or should have been, brought forth during the original hearing. I find that any issues, arguments or objections raised were duly considered before the decision was rendered. An Application for Review Consideration does not function to give one party a second opportunity to reargue their case.

With respect to allegations of fraud, I find that it to be a principle of natural justice that each party to a dispute is always at liberty to candidly give his or her testimony in the manner they choose. At the hearing, each person, landlord or tenant, is expected to advocate and present their most compelling arguments to support their position as they see it.

The fact that any party to the proceeding does not believe the other person's testimony or disagrees with the other party's version of the "facts", nor the conclusion reached by the arbitrator, does not make this a case of fraud under the Act.

I find that, the tenant has not provided sufficient evidence in the application to establish that fraudulent actions had been perpetrated by the respondent that unfairly affected the decision and results of the hearing. For this reason, I reject the ground of fraud put forth by the tenant to justify a review of the decision.

#### Decision

I dismiss the tenant's application for review consideration and confirm the original decision and order issued on March 7, 2013.

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 21, 2013

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Residential Tenancy Branch