



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MND MNDC MNR MNSD

### Introduction

This Application was filed by the tenant on April 19, 2013, seeking a Review Consideration of a Decision and Order dated April 4, 2013 having been received by mail on April 10, 2013. The Decision resulted in the landlord being granted a monetary order.

Division 2, Section 79(2) under the *Residential Tenancy Act* says a party to the dispute may apply for a review of a 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.

The tenant has applied on the second ground.

### Issues

- Does the tenant have new and relevant evidence that was not available at the time of the original hearing?

### Facts and Analysis

The Application contains information under section C2, on why the tenant has new and relevant evidence with respect to the hearing held on March 21, 2013.

The tenant writes in her Application:

"Item 1 – letter from witness (SA)

How it is relevant : confirms that landlord stated carpets were damp, not too wet

Why this item was not available earlier: witness had heavy workload + preparing for surgery.

Item 2 – copy of condition report at end of tenancy

How it is relevant: confirms that landlord stated condition of carpets was “fine”

Why this item was not available earlier: - form was mistakenly packed away in storage unit after tenant moved out of ## XXXX X. Tenant house sat for others before moving into current address.”

The tenant submitted a one page letter from a witness and three page condition inspection report with her Application.

### Decision

Based on the above, the evidence and Application submitted, and on a balance of probabilities, I find the tenant’s Application for a Review Consideration must be **dismissed**.

In order to be successful on the second ground for review, the tenant must prove that new and relevant evidence exists that was not available at the time of the original hearing.

The tenant did not submit any evidence to corroborate that the witness was preparing for surgery and had a heavy workload. As a result, the tenant has provided insufficient evidence to prove that the witness letter submitted for this Application could not have been made available to the tenant prior to the hearing held on March 21, 2013.

The tenant also submitted a copy of a three page condition inspection report that the tenant writes was “mistakenly packed away in storage” as the reason why the document was new and relevant under section C2 of the Application. The tenant’s admitted mistake by placing the condition inspection report in a location where it could not be found does not make the condition inspection report “new and relevant”, as the document was in existence at the time of the hearing on March 21, 2013. As a result, the tenant has provided insufficient evidence to support that the three page condition inspection report was new and relevant.

For these reasons, I **dismiss** the Application of the tenant due to insufficient evidence.

The decision and orders made on April 4, 2013, stand and remain in full force and effect.

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: April 29, 2013

---

Residential Tenancy Branch