



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW CONSIDERATION DECISION**

**Dispute Codes** FF, MND, MNDC, MNR, MNSD

### **Basis for Review Consideration**

Section 79(2) of the Residential Tenancy Act (Act) states that 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:

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

### **Applicant's Submission**

The application for review consideration states the decision should be reviewed on the ground of new and relevant evidence that was not available at the time of the original hearing.

I note that in her application for review, the applicant has attached a copy of an online social media conversation with the previous tenant regarding the carpets in the rental unit. The applicant states that the carpets were not brand new at the start of the tenancy in August 2011, as indicated by the landlord during the hearing. The applicant for review refers to the statement of the previous tenant in the online conversation regarding the installation of the carpets prior to March 2011.

This online conversation took place on December 12, 2012. The applicant states that it was not available for the hearing on March 11, 2013, because it was lost in her "other" folder.

### **Analysis**

It is up to a party to prepare for an arbitration hearing as fully as possible. Parties should collect and supply all relevant evidence to the arbitration hearing. Evidence which was in existence at the time of the original hearing, and which was not presented by the party, will not be accepted on this ground unless the applicant can show that he or she was not aware of the existence of the evidence and could not, through taking reasonable steps, have become aware of the evidence.

On the ground for review, that the applicant has new and relevant evidence that was not available at the time of the original hearing, I find that the applicant has not provided any new evidence. The evidence attached to the application is dated December 12, 2012 and the hearing was conducted on March 11, 2013. The tenant had adequate time to file a copy of this online conversation into evidence. In addition, it was not a matter unknown to the tenant at the time of the hearing. The tenant had the opportunity to provide testimony during the hearing regarding this conversation.

This ground for review is not designed to provide parties a forum in which to rebut findings by the Arbitrator or to allege an error of fact or law, but to provide evidence which could not have been presented at the time of the hearing because it was not in existence at that time. The tenant has not provided any new evidence in her application for review and therefore, I find that the application for review on this ground must fail. The applicant is free to apply for judicial review in the Supreme Court, which is the proper forum for bringing allegations of error.

### **Conclusion**

I dismiss the Application for Review Consideration. The original decision and order made on March 11, 2013 are confirmed.

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: April 03, 2013

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Residential Tenancy Branch

