



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW DECISION**

This is an application filed by the landlord for review of the March 20, 2013 decision and order of the Arbitrator. The applicant applied for review on the ground that she has new and relevant evidence not available at the time of the original hearing and on the ground that the decision or order was obtained by fraud. With respect to the ground that there was new and relevant evidence, the landlord said in her application that:

The C.D. of Photographs showing damage to the Rental property was not reviewed by the Arbitrator nor was any reference made to all the witness letters.

With respect to the ground that the decision was obtained by fraud, the landlord said:

Tenants stated permission was given for door removal and painting. This is completely UNTRUE. As was removal of shelf from Patio. The mislead me regarding having Cats who ruined carpets. (reproduced as written)

The landlord stated that:

I believe that from the beginning of the Tenancy the Tenants took advantage of the home owner by using their knowledge of the RTA and lying about how many tenants were in the property and by sub-letting without permission

The landlord did not submit any documents or other evidence with her review application.

The Residential Tenancy Policy Guideline #24 concerning Review applications contains the following passage:

A party who is applying for review on the basis that the arbitrator's decision was obtained by fraud must provide sufficient evidence to show that false evidence on a material matter was provided to the arbitrator, and that that evidence was a significant factor in the making of the decision. The party alleging fraud must allege and prove new and material facts, or newly discovered and material facts, which were not known to the applicant at the time of the hearing, and which were not before the arbitrator, and from which the arbitrator conducting the review can

reasonably conclude that the new evidence, standing alone and unexplained, would support the allegation that the decision or order was obtained by fraud. The burden of proving this issue is on the person applying for the review. If the arbitrator finds that the applicant has met this burden, then the review will be granted.

The landlord has not alleged any new and material facts. She claimed that the arbitrator did not consider evidence that she submitted, in particular a computer disk containing digital photographs. The applicant may be correct in her assertion that the photographic evidence that she submitted was not considered by the arbitrator, but that does not constitute a basis for me to grant the review application. The landlord's review application is an attempt to reargue matters that were before the Dispute Resolution Officer at the original hearing. The claim in the review application that relevant evidence was not considered by the arbitrator is primarily an assertion that the landlord was not afforded a fair hearing. While the claim that the applicant was denied a fair hearing may provide grounds for an application to the Supreme Court of B.C. for judicial review, it does not constitute a valid ground for review pursuant to my statutory authority under section 79 of the *Residential Tenancy Act*. The landlord has not submitted any new and relevant evidence that was not available at the time of the original hearing and on the information provided by the landlord I am unable to conclude that the decision was obtained by fraud. The landlord's application for review on the ground that the arbitrator's decision was obtained by fraud is denied.

For the above reasons I dismiss the application for review. The original decision and order dated March 20, 2013 is 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 30, 2013

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Residential Tenancy Branch

