



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

**Dispute Codes:** FF MNDC O

### **Introduction**

The Decision/Order under review is a Decision on the Tenant's application for compensation and for other Orders. The Tenant was awarded \$123.75 for loss of peaceful enjoyment; \$28.13 for little or no water for one week; and partial recovery of the cost of the filing fee, in the amount of \$25.00. The remainder of the Tenant's application was dismissed.

The Tenant submits that he received the Decision on May 10, 2013, by regular mail.

Division 2, Section 79(2) of the *Residential Tenancy Act* provides 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 following 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 applies for review on the third ground set out above.

### **Issues**

Does the Tenant have evidence that the Director's Decision or Order was obtained by fraud?

### **Background and Evidence**

The Tenant submits that the Landlord's entire testimony was false; that the Landlord was deliberately lying during the Hearing; and that the Landlord got away with several MHPTA and MHPTTR violations. The Tenant attached a written submission providing 8

points on which the Tenant alleges the Landlord gave fraudulent testimony. He also described ways in which he believes the Arbitrator's analysis was flawed.

### **Analysis**

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.

I find that the facts contained in the Tenant's documents in support of his Application for Review are not newly discovered, nor were they not known to the Tenant at the time of the Hearing.

The submissions of the Tenant and the Landlord were considered by the Dispute Resolution Officer at the Hearing on April 22, 2013. The Dispute Resolution Officer made findings on the balance of probabilities with respect to the submissions and testimony of the parties. **An Application for Review Consideration is not an opportunity to reargue the case.**

I find that the Tenant's application does not disclose sufficient evidence that the Decision and Order were obtained by fraud and therefore I dismiss his Application.

### **Conclusion**

The original Decision and Orders dated May 2, 2013, are therefore 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 *Manufactured Home Park Tenancy Act*.

Dated: May 29, 2013

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Residential Tenancy Branch