



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: FF MNR OPR

Introduction

The Tenants apply for a review of the decision on the basis of new and relevant evidence and on the basis of fraud.

Division 2, Section 79(2) under the *Residential Tenancy Act* says 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:

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.

Issues

Has the Tenant provided evidence that was not available at the time of the hearing?

Has the Tenant provided evidence that the decision or order was obtained by fraud?

Facts and Analysis

The Tenant submits that despite making late rent payments over the duration of 10 years, it was only after the Tenant found a puppy in a garbage bin and kept the puppy that the Landlord served the Tenant with a notice to end tenancy for unpaid rent. As the Tenant was at the Hearing and as the evidence in relation to the puppy was available for the Hearing, I find that the Tenant has not provided evidence that was not available at the Hearing and that the Tenant has not substantiated a review of the decision on the basis of new and relevant evidence.

The Tenant submits that the tenancy started prior to the Landlord requiring a pet deposit and as a result the Tenant is not required to pay a pet deposit to keep the puppy. The Tenant states that it was only after the refusal to pay the pet deposit that the Landlord served the Tenant with the notice to end tenancy for unpaid rent. The Tenant submits that given the long standing pattern of acceptance of late rent that the real reason for the notice to end tenancy was not due to the late rent payment, which the Tenant does

not dispute, but due to the dispute over the puppy. The Tenant submits that as the pattern of late rent was not the real issue, the Landlord provided false information at the Hearing in relation to the late rent.

While there may have been an issue due to the presence of the puppy without the payment of a pet deposit, as the decision was based on the evidence of non payment of rent and as the Tenant has not provided any evidence that the Landlord fraudulently gave evidence that the rent was not paid, I find that the Tenant has not provided evidence that the Landlord gave false information to obtain the decision and order.

I dismiss the application.

Decision

The decision made on April 10, 2013 stands.

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: May 03, 2013

Residential Tenancy Branch