



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR

Introduction

This application was filed by the tenants, requesting a review consideration of the Decision made on May 8, 2013.

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.

The tenants have applied based on ground 2 and 3 for review consideration

Issues

Do the tenants have new and relevant evidence that was not available at the time of the original hearing?

Do the tenants have evidence the director's decision or order was obtained by fraud?

Facts and Analysis

The tenant writes in their application that they have new and relevant evidence that was not available at the time of the hearing "Three letters from landlord dated May 9, May 10, and May 12, 2013, were not sent until after arbitration took place although (name) stated he was permitting the third vehicle. He now wants it removed from the park if I want the peace and equal treatment I am entitled too."

[Reproduced as written]

The Residential Tenancy Policy Guideline #24 defines new evidence as evidence that has come into existence since the dispute resolution hearing. It also includes evidence which the applicant could not have discovered with due diligence before the dispute resolution hearing.

Evidence in existence at the time of the original hearing 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.

In this case, the tenants have submitted three letters from the landlord, which were written after the hearing, had concluded. These letters indicate that landlord still wishes the tenant to remove the RV from the site. However, the letters also state if they continue to park the RV the parking fees of \$50.00 per month will continue as order by the Arbitrator.

While these letters may be new, they are not relevant to the decision that was made by the arbitrator on May 8, 2013. Further, these letters would not have changed the outcome of the original hearing. Therefore, I find the tenants have failed to prove new and relevant evidence.

The tenants write in their application that the information the landlord submitted for the initial hearing was false. In this case, the tenant argues that the testimony of the landlord was fraudulent. However, the tenant has not provided evidence that the decision was obtained by fraud. The officer heard arguments from both parties on these issues in the hearing and made a decision based on the evidence presented. This is not an opportunity for the tenant to reargue the case. Therefore, I find the tenants have failed to prove the decision or order was based on fraud.

Decision

Based on the above, the application and on a balance of probabilities, I find the tenants' application for review consideration must be dismissed.

Therefore, I find the Decision and orders made on May 8, 2013, stand and remain in full force and effect. The tenant's application for review is dismissed.

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 17, 2013