



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: CNL

Introduction

On May 13, 2013 a dispute resolution hearing was conducted to resolve a dispute between these two parties. The Tenant had applied for more time to make an application for dispute resolution and if successful to cancel a notice to end tenancy issued for Landlord's use. Both parties attended the hearing by conference call and gave testimony. The Tenant's Application for more time was dismissed without leave to reapply. The Tenant has applied for review of this decision.

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

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

Does the Tenant have evidence that the decision or order was obtained by fraud?

Facts and Analysis

The Tenant has provided details of new and relevant evidence and that the original decision was obtained by fraud by providing numerous emails regarding the Landlord's 2 month notice to end tenancy issued for Landlord's use. The stated reason for the notice "The Landlord has all necessary permits and approvals required by law to demolish the rental unit or repair the rental unit in a manner that requires the rental unit to be vacant." An email dated May 10, 2013 originates from the City of Victoria, Director of Planning and Development which states that, "...nor have we received any building permit applications to date."

Decision

I find that although the Tenant has provided relevant evidence that would have made an impact in an application to cancel a notice to end tenancy for Landlord's use that it does not apply in this case. The original decision dated May 13, 2013 was made to dismiss the Tenant's Application for more time to make an application for dispute resolution. In this case, a finding was made that the Tenant failed to make an application within 15 days of receiving the notice and provided no "reasonable reason as to why she failed to do so." On this basis the Tenant's Application was dismissed. The merits of an application to cancel a notice to end tenancy issued for Landlord's use was not part of this decision. The Tenant's Application for Review based upon new and relevant evidence and that a decision was obtained by fraud is denied.

The decision made on May 13, 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 22, 2013

Residential Tenancy Branch