



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute codes: CNR DRI ERP FF LAT LRE MNDC O OLC PSF RR

### Preliminary Issues

The tenants applied for an extension of time to make the application for review; however, according to the tenants' own evidence, the application has been made in time. Therefore, it is not necessary for me to consider the application for an extension of time.

Further, the tenants applied for a review on the ground that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control. However, the tenants acknowledged in this portion of their application for review that they did attend the original hearing. Therefore, it is not necessary for me to consider whether the tenants are entitled to a review on the ground that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control.

### Introduction

This is an application by the tenants for a review of a decision of the director dated May 27, 2013.

The tenants applied for a review on the grounds that they have new and relevant evidence that was not available at the time of the original hearing; and they have evidence that the director's decision or order was obtained by fraud.

### Issues

Have the tenants provided sufficient evidence to demonstrate that they are entitled to a review either because

- (a) they have new and relevant evidence that was not available at the time of the original hearing; or
- (b) they have evidence that the director's decision or order was obtained by fraud?

## Facts and Analysis

### *Original Hearing and Decision*

The original hearing convened pursuant to applications by both the landlord and the tenants. The arbitrator only dealt with the tenants' application to cancel a notice to end tenancy for unpaid rent and the landlord's claim for an order of possession, a monetary order for unpaid rent and an order to retain the security deposit in partial compensation of the monetary claim.

In the decision dated May 27, 2013, the arbitrator found that as the tenants had not paid their outstanding rent and had no authority under the Act to withhold it. The arbitrator therefore found that the notice to end tenancy was valid, and he granted the landlord an order of possession, as well as ordering that the landlord retain the security deposit in partial compensation of the monetary claim and a monetary order for the balance.

### *Tenants' Submissions*

In the application for review, the tenants submitted that the new and relevant evidence was several emails that the tenants were unable to print for the hearing due to power cuts or electrical problems.

In regard to the allegation of fraud, the tenants submitted that the landlord was dishonest in the hearing, and "it is possible that the RTB may have been influenced to cause further hardship on [the tenant] and his properties were stolen by fraudulent schemes established by lawyers in the court, and this fraud is still continuing."

### *Analysis on Review*

The additional evidence that the tenants submitted in his review application is not new and could have been submitted as evidence in the original hearing. The tenants did not provide sufficient evidence to establish that they would not have been able to otherwise retrieve and print their emails to submit prior to the hearing. I therefore find that the tenants are not entitled to a review on the ground of new and relevant evidence.

In regard to the claim of fraud, it is clear from the decision dated May 27, 2013 that the tenants and the landlord provided their evidence on the relevant issues, and the arbitrator found that the tenants themselves acknowledged that they had not paid rent. The fact that the tenants disagree with the conclusion reached by the arbitrator does not amount to fraud. I further find no evidence of fraud by the RTB or other persons. I therefore do not accept the tenants' claim that the arbitrator's decision was obtained by fraud.

### Decision

I dismiss the application for review and confirm the original decision and orders of May 27, 2013.

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: June 7, 2013

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Residential Tenancy Branch