



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: MNDC MNR MNSD

Introduction

This Application was filed by the tenants on May 27, 2013, seeking a Review Consideration of the Decision and Order dated May 13, 2013 and having received that decision on May 22, 2013. The Decision granted the tenants a monetary order in the amount of \$350.00.

The tenants request an extension of time to apply for a review, however, the tenants filed this review on May 27, 2013 which was in time under section 80 of the *Act*. As a result, **I find** the tenants request for an extension is moot, as the tenants applied for review on time. Therefore, I will consider the tenants' application for a Review Consideration.

Division 2, Section 79(2) under the *Residential Tenancy Act* says a party to the dispute may apply for a review of a 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 on the first, second and third grounds.

Issues

- Have the tenants provided evidence that the tenants were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond their control?
- Have the tenants provided evidence that the tenants have new and relevant evidence that was not available at the time of the original hearing?

- Have the tenants provided evidence that the director's decision was obtained by fraud?

Facts and Analysis

The Application contains no information under section C1, on why the tenants could not attend the original hearing held on May 13, 2013, however, the decision indicates that both tenants were present at the hearing held on May 13, 2013.

The Application contains information under section C2, on why the landlord has new and relevant evidence with respect to the hearing held on May 13, 2013.

The tenants write in their Application:

"I S was interrupted many times dates were wrong 9th Moved April in the rental unit Repairs were not done as he said I did repairs mold black covered up. Doctor's letter's did not no could use them on Hospital Records ambulance an Evidence mold was not done."

[identifiers were removed to protect privacy]

The Application contains information under section C3, from the tenants alleging that the director's decision was obtained by fraud.

The tenants write in their Application:

"False Date Left different rental unit Repairs Did not Do when should. The landlord be ordered to complete repairs to the unit. Issue(s) to be decided. Repair Order. After considering the tenants photographic evidence I order the landlord to immediately investigate mold in unit Take any steps recommended by a professional in relation to cleaning of the mold and rehabilitation Dated March 01, 2013."

[identifiers were removed to protect privacy]

The tenants submitted three medical letters from the same Medical Doctor. Two letters refer to the male tenant, while the third letter refers to the female tenant.

Decision

Based on the above, the evidence and Application submitted, and on a balance of probabilities, I find the following.

As the tenants provided no information under the first ground claiming that they were unable to attend the hearing, and taking into account that the tenants are listed as having attended the hearing on May 13, 2013, **I dismiss** this portion of the tenants' Application due to insufficient evidence.

In order to be successful on the second ground for review, the tenants must prove that new and relevant evidence exists that was not available at the time of the original hearing. The tenants write:

"I S was interrupted many times dates were wrong 9th Moved April in the rental unit Repairs were not done as he said I did repairs mold black covered up. Doctor's letter's did not no could use them on Hospital Records ambulance an Evidence mold was not done."

[identifiers were removed to protect privacy]

The tenants' statement reproduced as written above is unclear and does not prove that they have new and relevant evidence that was not available at the time of the original hearing. Furthermore, the tenants do not clearly articulate what their new evidence is and how it is relevant. Providing three medical letters without indicating what the letters support or prove does not constitute new and relevant evidence. Furthermore, the tenants failed to indicate why the letters were not available at the time of the original hearing. For these reasons, **I dismiss** this portion of the tenants' Application due to insufficient evidence.

In order to be successful on the third ground for Review, the tenants must prove, based on a balance of probabilities, that the director's decision was based on fraud. The tenants write:

"False Date Left different rental unit Repairs Did not Do when should. The landlord be ordered to complete repairs to the unit. Issue(s) to be decided. Repair Order. After considering the tenants photographic evidence I order the landlord to immediately investigate mold in unit Take any steps recommended by a professional in relation to cleaning of the mold and rehabilitation Dated March 01, 2013."

[identifiers were removed to protect privacy]

For the tenants to be successful on the third ground, they must provide evidence supporting that the decision was based on fraud. The tenants have failed to provide any evidence to support that the decision was based on fraud. The tenants wrote from an

earlier decision dated March 01, 2013, however, have not provided evidence that the May 13, 2013 decision was based on fraud. At the very least, the tenants should have clearly stated which specific part of the decision was based on fraud and submitted evidence to support that claim. Based on the above, **I dismiss** this portion of the tenants' Application due to insufficient evidence.

As the tenants' application has been dismissed on all three grounds, the decision and order made on May 13, 2013, **stand and remain in full force and effect.**

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 03, 2013

Residential Tenancy Branch