



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute codes: FF MND O

### Introduction

The original dispute resolution hearing on the joint applications of the parties was held on May 21, 2013, and a Decision was issued on May 22, 2013, granting the tenants' application in part for a monetary order, an order of possession for the rental unit, and an order requiring the landlords to return some personal property of the tenants. The Decision further dismissed the landlords' application for dispute resolution.

This is a request by the landlords for a review of that original Decision.

The landlords applied for a review on the grounds that they have evidence that the Decision was obtained by fraud, pursuant to Section 79(2) under the *Residential Tenancy Act*

### Issues

Have the applicants for review provided sufficient evidence to support the indicated ground for review?

### Facts and Background

As written evidence to support their claim that they have evidence the original Decision was obtained by fraud, the landlords submitted a handwritten note with the landlords' handwritten notes around the perimeter of the tenants' original note. The note indicated that the tenants gave one of the landlords \$530 in cash, according to the tenants.

The landlords took exception to this note, indicating that the information on the note was false. This note was contained in the tenants' original application for dispute resolution, was received in advance of the hearing, and was used as evidence at the hearing.

Additionally, in their application for review, the landlords stated that the tenants lied about paying the landlords rent, and that this was brought up in the hearing. The

landlords also submitted that the tenants lied about not removing their belongings and that the tenants were not the original tenants who were to rent the rental unit in question. This disagreement was also noted in the Decision of May 22, 2013.

The landlords also submitted that the tenants contradicted themselves in the hearing.

#### *Analysis on Review-*

Residential Tenancy Policy Guideline #24 provides, among other things, that the party alleging fraud must allege and prove new and material facts, or newly discovered and material facts, which were not known to the applicant at the time of the hearing, and which were not before the Arbitrator.

When claiming fraud, it is not enough to allege that the opposing party made false statements at the hearing, which were met by a counter-statement by the applicant for review, and the evidence as a whole was adjudicated upon by the Arbitrator.

In this case, I find the tenants provided evidence for the hearing, the landlords provided countering evidence, and Arbitrator made a Decision after considering both parties' evidence. I additionally find that the landlords have repeated their testimony at the hearing in support of their application for review and referred to evidence submitted and considered in the hearing. I therefore concluded that the landlords' submissions were before the Arbitrator at the hearing.

It is evident that the landlords have taken issue with the outcome of the hearing; however the fact that the applicants/landlords disagree with the conclusion reached by the Arbitrator does not amount to fraud.

I therefore do not accept the applicants/landlords claim that the Decision was obtained by fraud.

Therefore I find that the landlords have not presented evidence to support their application.

I further find, pursuant to Section 81 (1) of the Act, the landlords' application for review discloses no basis on which, even if the submissions in the application were accepted, the Decision or order of the director should be set aside or varied.

#### Decision

Due to the above, I dismiss the landlords' application for review and confirm the original decision and orders of May 22, 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 04, 2013

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Residential Tenancy Branch