



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: MNR OPR

### Introduction

This file was originally dealt with on May 27, 2013 through a “Direct Request”, non-participatory, Dispute Resolution proceeding.

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

The applicant is claiming there is new and relevant evidence that was not available at the time of the original hearing and that the original decision was obtained by fraud.

### Facts and Analysis

The application contains information under Reasons Number 2 & 3

### Reason Number 2

The applicant is claiming that there was a church that was going to help them to pay the rent however neither themselves nor the church was able to get a response from the landlord and therefore the rent was never paid.

It’s my finding that this information would have made no difference to the outcome of the hearing, because the tenants never filed a dispute of the Notice to End Tenancy. The tenants are therefore conclusively deemed to have accepted the end of the tenancy, even if there was a possibility that they could have gotten the rent.



I therefore will not grant a new hearing under reason number 2.

### Reasons Number 3

To prove an allegation of fraud the parties must show that there was a deliberate attempt to subvert justice. A party who is applying for review on the basis that the Arbitrators decision was obtained by fraud must provide sufficient evidence to show that false evidence on a material matter was provided to the Arbitrator, and that that evidence was a significant factor in the making of the decision. 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, and from which the Arbitrator conducting the review can reasonably conclude that the new evidence, standing alone and unexplained, would support the allegation that the decision or order was obtained by fraud. The burden of proving this issue is on the person applying for the review. If the Arbitrator finds that the applicant has met this burden, then the review will be granted.

In this case the applicants have provided no evidence to show that the decision was obtained by fraud, and in fact they state that they cannot conclude that there was any false information given to the RTB.

I therefore will not grant a new hearing under reason number 3.

### Decision

The application for review hearing is denied

The decision and orders issued on May 27 2013 stand.

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 19, 2013

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Residential Tenancy Branch