



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes OPR, MNR, MND, FF

Basis for Review Consideration

Section 79(2) of the Residential Tenancy Act (Act) states that 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.

Applicant's Submission

The application for review consideration states the decision should be reviewed on the ground that the party has evidence that the decision was obtained by fraud. The applicant did not attend the hearing but has not applied for a review on the grounds of "Unable to attend".

On this ground for review, that the Arbitrator's decision was obtained by fraud, the applicant alleges that the landlord committed fraud by illegally raising his rent from \$500.00 to \$600.00 in March 2010.

Analysis

A party who is applying for review on the basis that the Arbitrator's 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 Arbitrator based his decision on the undisputed testimony of the landlord. The tenant was duly served with the notice of hearing and therefore was informed of the landlord's application for an order of possession and for the monetary amount of the landlord's claim.

With respect to the matter the applicant asserts is fraudulent, it was not a matter unknown to the applicant at the time of the original hearing. It was in existence and could have been addressed at the original hearing. The applicant may disagree with the Arbitrator's findings of fact, but he had an opportunity to respond to the landlord's evidence at the hearing, but chose not to attend the hearing.

In his application, the rent increase that the tenant is referring to was served to him in 2010. If the tenant did not agree with the rent increase, he had the opportunity to file an application to dispute it at that time. The tenant did not do so and continued to pay the rent increase for over three years without questioning the legality of the increase.

The application discloses insufficient evidence that the decision under review was obtained by fraud; and therefore, fails to satisfy the inherent burden of proof. Accordingly, I find that the application for Review on this ground must fail.

This ground for review is not designed to provide parties a forum in which to rebut findings by the Arbitrator or to allege an error of fact or law. The applicants are free to apply for judicial review in the Supreme Court, which is the proper forum for bringing allegations of error.

Conclusion

The decision made on May 10, 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: June 13, 2013