



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD OPR

Introduction

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.

REVIEW DECISION

The applicants have applied on the grounds that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control. The applicant stated that she had to take her daughter to a medical appointment and could not participate in the hearing. The male landlord attended and was given full opportunity to present evidence on their behalf and dispute any of the tenants' evidence. The landlords were sufficiently represented at the hearing. I dismiss this portion of the landlords' application.

The applicant has also applied on the grounds that they have new and relevant evidence that was not available at the time of the hearing. The landlord wished to submit text messages from the tenant. The landlord stated in their application that they didn't feel they were relevant when preparing their evidence package and chose not to submit them. In the landlords own written application it is clear this evidence was available at the time of the hearing. Based on the above I dismiss this portion of the landlords' application.

The applicants have also applied on the grounds that a party has evidence that the director's decision or order was obtained by fraud. When asked to describe or list the

fraudulent evidence, the applicant stated the tenants “exaggerated the damage to the suite from the flood in order for the landlords to let her out of her lease and pay for all her costs”. The Arbitrator has weighed the evidence and has made in finding. The landlords are attempting to use the review process to have the case reheard which is not the purpose of this process. The landlords were represented at the hearing and were given full opportunity to challenge any evidence at that time. The landlords have not provided sufficient evidence to prove fraud. Based on the above I dismiss this portion of the landlords’ application.

For the above reasons I dismiss the application for leave for review.

The original decision dated May 16, 2013 is confirmed.

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 26, 2013

Residential Tenancy Branch