



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: OLC

### Introduction

The original dispute resolution hearing on the application of the tenant was held on May 7, 2013, and a Decision was issued on May 31, 2013, dismissing the tenants' application requesting orders for the landlord and a monetary order for money owed or compensation for damage or loss in relation to her allegation that she has been deprived of her rights to quiet enjoyment.

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

The tenant applied for a review on the ground that she has evidence that the Decision of May 31, 2013, was obtained by fraud, pursuant to Section 79(2) under the *Residential Tenancy Act*

### Issues

Has the applicant for review provided sufficient evidence to support the indicated ground for review?

### Facts and Background

Pursuant to Residential Tenancy Branch Policy Guideline #24, in an application for review based upon this ground, the applicant is required to provide evidence meeting **all three** of the following tests:

1. information presented at the original hearing was false;
2. the person submitting the information knew that it was false; and,
3. the false information was used to get the outcome desired by the person who submitted it.

Additionally, on the application for review for review itself, signed by this applicant, the applicant is instructed to provide evidence proving these three tests.

As evidence in her application for review, the applicant merely restated these three grounds to meet test 1.

To meet step 2, the applicant said the building manager, the landlord, was in the laundry room when she was verbally assaulted and physically menaced.

To meet step 3, the applicant said there was a conspiracy between another tenant and the building manager.

#### *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.

Further the applicant is required to submit sufficient evidence with their application to prove their allegation.

In this case, I find the applicant/tenant provided no evidence and merely restated testimony given at the hearing. A review of the original Decision shows that the Arbitrator made a detailed analysis of these same allegations of the tenant, and found the tenant's testimony conflicting and that she had exhibited inappropriate conduct.

I therefore concluded that the tenant's submissions were before the Arbitrator at the hearing.

It is evident that the tenant has taken issue with the outcome of the hearing; however the fact that the applicant/tenant disagrees with the conclusion reached by the Arbitrator does not amount to fraud.

I therefore do not accept the applicant/tenant's claim that the Decision was obtained by fraud.

Therefore I find that the tenant has not presented evidence to support her application.

Decision

Due to the above, I dismiss the tenant's application for review and confirm the original Decision of May 31, 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*.

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 21, 2013

---

Residential Tenancy Branch