



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: MNR OPR

### Introduction

This is an application by the tenants for a review of a decision of the director dated July 2, 2013.

The tenants applied for a review on the ground that they have evidence that the director's decision or order was obtained by fraud.

### Issues

Have the tenants provided sufficient evidence to show that the director's decision or order was obtained by fraud?

### Facts and Analysis

#### *Original Hearing and Decision*

The landlord applied through the direct request process on June 12, 2013 for an order of possession and a monetary order pursuant to a notice to end tenancy for unpaid rent. In the decision on the landlord's application, the arbitrator found that the tenants were deemed to have been served with a notice to end tenancy on June 5, 2013, and that the tenants failed to pay the full outstanding amount within five days of having been served with the notice. Accordingly, the arbitrator granted the landlord an order of possession and a monetary order for outstanding rent of \$1080.

#### *Tenants' Submissions*

In their application for review, the tenants indicated that they did not receive the notice to end tenancy or the registered mail. The landlord committed fraud by indicating on the proof of service document that the notice to end tenancy was posted on the door, which they did not. The landlord always slides the notices under the door. The tenants further indicated that on June 3, 2013 they spoke to the manager, who gave the tenants an

extension on their rent payment. Finally, the tenants indicated that they have paid all of the rent for June 2013 and half of the rent for July 2013.

As supporting evidence of their application for review, the tenants submitted copies of two receipts, one dated June 26, 2013 indicating that the landlord accepted a payment of \$1140 from the tenants for use and occupancy only, and one dated July 3, 2013 indicating that the landlord accepted a payment of \$550 from the tenants for use and occupancy only.

### *Analysis on Review*

I do not accept the tenants' claim that the arbitrator's decision was obtained by fraud.

The tenants indicated that they did not receive the notice to end tenancy or the registered mail, but they also indicated that they had received the proof of service document – which the landlord sent in the registered mail package.

Further, I find it unlikely that the tenants would have spoken to the manager on June 3, 2013 about an extension on paying their rent unless they had been served with a notice to end tenancy on June 2, 2013.

Finally, the tenants' own evidence demonstrates that on June 12, 2013, the date that the landlord filed their application for dispute resolution, the tenants had not yet paid rent for June 2013. When the tenants did make payments, the landlord indicated that the amounts were received for use and occupancy only. The tenants therefore may have satisfied the monetary order, but the tenancy has not been reinstated and the order of possession is still valid.

Decision

I dismiss the application for review and confirm the original decision and order of possession dated July 2, 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: July 11, 2013

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Residential Tenancy Branch