



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: MNDC MNSD O

### Introduction

On May 24, 2013 XXXXXX provided a decision on the tenants' Application for Dispute Resolution seeking to a monetary order. The hearing had been conducted on May 24, 2013. That decision dismissed the tenants' Application in its entirety. The tenants requested an extension of time to apply for Review Consideration.

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.

The tenants submits in their Application for Review Consideration that they have new and relevant evidence that was not available at the time of the original hearing and they have evidence that the director's decision was obtained by fraud.

### Issues

It must first be determined if the tenants have submitted their Application for Review Consideration within the legislated time frames required for reviews.

If the tenants have submitted their Application within the required time frames it must be decided whether they are entitled to have the decision of May 24, 2013 suspended with a new hearing granted because they have provided sufficient evidence to establish that they have new and relevant evidence that was not available at the time of the original hearing; or they have evidence the decision was based on fraud.

### Facts and Analysis

Section 80 of the *Act* stipulates that a party must make an Application for Review Consideration of a decision or order within 15 days after a copy of the decision or order is received by the party, if the decision does not relate to a matter of possession of the

rental unit; a notice to end tenancy; withholding consent to sublet; repairs or maintenance or services and facilities.

From the decision of May 24, 2013 the issues before the Arbitrator were related to the tenants' claim for compensation after the tenancy had ended. As such, I find the decision and order the tenants are requesting a review on allowed 15 days to file their Application for Review Consideration.

From the tenants' submission they received the May 24, 2013 decision on June 24, 2013 and filed their Application for Review Consideration with the Residential Tenancy Branch on June 26, 2013 (2 days after receipt of the decision and order). I find the tenants have filed their Application for Review Consideration within the required timelines. I find, therefore, there is no reason to grant the tenants additional time to file their Application for Review Consideration.

The tenants submit, in response to the question on the Application for Review Consideration asking them to list each item of new and relevant evidence and state why it was not available at the time of the hearing and how it is relevant, the following statements:

"Past claims & damages, time of repairs. Knowledge of address serving – papers filed at advocate N/A. Holidays. Amounts of knowledge admitted too in past. Copies found."

The tenants did not provide any information as to why any of this information was not provided at the original hearing or how it is relevant to the outcome, particularly since the decision was to dismiss the claim in large part due to the fact the tenants had not provided any receipts or proof of any actual costs or losses. None of this evidence submitted by the tenants in their Application for Review Consideration includes any of this information.

As such, I find the tenants have failed to establish that they have any new or relevant evidence that would change the outcome of the original decision. Therefore, I find the tenants have failed to establish new and relevant evidence as a ground for a new hearing.

In response to the questions regarding fraud on the Application the tenants provide the following responses:

1. Which information submitted for the initial hearing was false and what information would have been true? (Response copied as written)
  - a. 2. Not possible to fix in time said by contractor, "letter."
  - b. Past claim knowledge & rulings.
  - c. Reports submitted address of deliveries proof.
2. How did the person who submitted the information know it was false? (Response copied as written)
  - a. Hiring contractor, attending suite

- b. Viewing on repairs
  - c. Past proven claims
  - d. Length of Repairs.
3. How do you think the false information was used to get the desired outcome?  
(Response copied as written)
- a. Not letting tenant claim amount of time of loss of use
  - b. Tenants time allotted repairs required.

I find all of these submissions in regard to the tenants' claim of fraud to be undecipherable and non-responsive to the pertinent questions to determine if the decision was obtained by fraud. In addition, as the claim was dismissed in large part because of the tenant's failure to provide sufficient evidence to establish their claim they have not provide any indication of fraud in this Application for Review Consideration.

### Decision

I dismiss the tenants' Application for Review Consideration.

The decision made on May 24, 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: July 03, 2013