



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: CNC

### Introduction

The original application by the Tenant was for an order to cancel a 1 Month Notice to End Tenancy for Cause issued by the Landlord. The reason on the Notice to end the tenancy was to comply with a government order. The order was issued by the District and was to decommission the kitchen of an illegal suite. The Landlords viewed the order as an eviction of the Tenant and the Tenant viewed the order as a notice to the Landlords to make the suite legal or to decommission the kitchen facilities in the unit. The Tenant argued that the District's order say nothing about the Tenant moving out of the unit. The Arbitrator found for the Tenant as the District notice to decommission the kitchen in the unit does not say the Tenant has to move out and the Arbitrator indicated in his analysis that the Landlords may have issued the wrong Notice to End the Tenancy.

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.

### Issues

The Landlords' application for a review of the previous Arbitrator's decisions is on the grounds that the Landlords have new and relevant information that was not available at the time of the original hearing. Is the landlords' application justified?

### Facts and Analysis

The Landlords' applied for a review based on the Landlord's contention that a copy of the Property Disclosure Statement was not entered into evidence and the Property Disclosure Statement given by the previous owners of the property was not truthful. The Landlords indicate they did not know the rental unit was illegal and it was not disclosed to them when they purchased the property. The Landlord included a copy of the Property Disclosure Statement dated May 7, 2013 as new and relevant evidence.

As the date on the Property Disclosure Statement is May 7, 2013 and the hearing date was June 18, 2013 it is apparent that the Property Disclosure Statement is not new information as it could have been available at the time of the hearing. In addition the Property Disclosure Statement does not change the situation between the Landlords and the Tenant in that the Landlords are still required to meet their responsibilities as set out in the tenancy agreement. The Landlords may not have known the rental unit was illegal, but they entered into a tenancy contract and they are bound by it. Consequently the information provided by the Landlord is not new or relevant to the tenancy and does not change the information provided at the original hearing. As a result I find the Landlords have not established grounds to be awarded a review hearing on the grounds of new and relevant evidence. The Landlords' request for a review is dismissed without leave to reapply.

I uphold the decision of the Arbitrator which states that the 1 Month Notice to End Tenancy for Cause dated May 21, 2013 and then reissued on May 29, 2013 is cancelled.

Decision

In considering the evidence on the Landlords' review application, I find that the Landlords have not established grounds to be granted a review hearing. Consequently I dismiss the Landlords' application for a Review Hearing. The Arbitrator's decision stands in effect as stated in the original decision of June 18, 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 17, 2012

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