



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MND MNDC MNR MNSD

### Introduction

This is an application by the Tenant for a review of the decision of an Arbitrator dated June 24, 2013. The Tenant did not attend the hearing on June 24, 2013 as the Tenant indicated in their review application; he did not receive the Notice of Hearing and Hearing package from the Landlord.

Further the Tenant claims he has new and relevant evidence and the Landlord was fraudulent in obtaining the decision and Order resulting from the Hearing.

The Arbitrator found for the Landlord and awarded the Landlord a monetary order for \$538.24 and ordered the Landlord to retain the Tenant's security deposit of \$875.00 and key deposit of \$50.00.

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 Tenant's application for a review of the previous Arbitrator's decision is on the grounds that the Tenant was unable to attend the original hearing because reasons beyond his control, the Tenant has new and relevant information and the decision and order were obtained by fraud by the Landlord. Is the Tenant's application justified?

## Facts and Analysis

The Tenant says in the review application that he did receive the Landlord's evidence package on June 6, 2013 but did not receive the Notice of Hearing and hearing package that the Landlord said he register mailed to the Tenant on March 28, 2013. The Landlord submitted into evidence the returned registered mail package marked unclaimed sent to the Tenant on March 28, 2013. The decision of June 24, 2013 says the Landlord serviced the Tenant in accordance with the Act and the Tenant was deemed to be served 5 days after the package was mailed. The address on the registered mail package is the same address for the Tenant as on the Tenant's review application therefore I find the Tenant was deemed to be served the hearing package and I concur with the decision of June 24, 2013 that the Tenant was served as required under the Act. The fact that the Tenant did not pick up his registered mail at the post office is not a defence to say he was not served the Hearing Package as this is not a reason that was beyond the Tenant's control. I dismiss the review on the grounds that the Tenant could not attend the Hearing because of reasons beyond his control.

The Tenant further requested a review based on new and relevant information. The information provided by the Tenant was 2 emails that the Tenant said shows there was zero attempts by the Landlord for a move out inspection and it shows the Landlord's negligence. I do not accept the validity of email evidence when the emails are just printed off with no corroborating evidence to support the emails validity. Consequently I dismiss the Tenant's review application based on of new and relevant information as the Tenant has not provided credible evidence to establish grounds for a review hearing.

The third grounds for review applied for by the Tenant is that the decision was obtained by fraud. The Tenant said in the review application that the Landlord submitted a false utility request, a false attempt at an inspection and did the walkthrough without the Tenant. The Tenant submitted a narrative, number of emails and an unsigned letter from a witness in support of his claim that the Landlord was fraudulent in obtaining the decision and order. The evidence submitted by the Tenant is not corroborated and the narrative is just the Tenant's words. The burden of proving a claim lies with the

applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met. The Tenant says he paid the \$150.00 utility bill but there is no receipt to support it. As well the Tenant indicated the utilities were for water but the invoices say the utilities are for residential heating. Consequently I find the Tenant has not established grounds for a new hearing due to the lack of corroborated evidence to prove the Landlord received the Decision and Order by fraud.

I dismiss the Tenant's application for a review hearing due to lack of evidence.

#### Decision

In considering the evidence of the Tenant's review application, I find that the Tenant has not established grounds to be granted a review hearing. Consequently I dismiss the Tenant's application for a Review Hearing. The decision and order stand in full effect as dated in the original hearing of June 24, 2013.

#### Conclusion

I dismiss the Application for Review Consideration. The decision and order made on June 24, 2013 are 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: July 24, 2013

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Residential Tenancy Branch