



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNR OPR

Introduction

The landlord's application for dispute resolution was conducted under the direct request procedure pursuant to section 55(4) of the Residential Tenancy Act (the "Act"), with a Decision being issued on July 12, 2013, granting the landlord a monetary order for \$1420 and an order of possession for the rental unit due to unpaid rent. The direct request proceeding is a mechanism for landlords to expedite applications from landlords in cases where the tenant has allegedly not paid rent and the right to regain possession is clearly granted by the statute. There is no participation from either party and no hearing is held. The Decision is decided on the written submissions of the landlord.

This is a request by the tenant for a review of that original Decision of July 12, 2013.

The tenant applied for a review consideration on the ground that he has evidence that the Decision of July 12, 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

As evidence in his application for review, the applicant merely argues that when he received the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") from the landlord, he asked the landlord what he had to do. The response of the landlord, according to the applicant/tenant, was that he should not file an application for dispute resolution.

The tenant further argues that the landlord gave him "fraud and misled information."

In the next sentence, the tenant said the information wasn't false.

The tenant then contended that he did not have a chance to file evidence or proof.

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.

In order to prove that the decision was obtained by fraud the applicant/tenant must show that false information was submitted, that the person submitting the evidence knew that it was false and *that the false evidence was used to obtain the desired outcome*.

It is my finding that the tenant has submitted insufficient evidence to support his argument under this ground.

I would expect the applicant/tenant to support his application for review consideration by stating that landlord provided false and inaccurate information in his application and supporting documents, not that he received inaccurate advice from the landlord, or that he had paid the rent or did not owe the rent listed on the Notice.

The tenant received the Notice, and it is clear on the Notice that the tenant was instructed to either file an application for dispute resolution in dispute of the Notice or to pay rent in full. Instead, according to the tenant, he did neither, but asked the landlord for advice.

Further the applicant is required to submit sufficient evidence with their application to prove their allegation. The applicant/tenant submitted no additional evidence.

It is evident that the tenant has taken issue with the outcome of the landlord's application; 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 his application.

Decision

Due to the above, I dismiss the tenant's application for review and confirm the original Decision and Orders of July 12, 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 24, 2013

Residential Tenancy Branch