



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: CNL OLC

### Introduction

This application was filed by the tenant, requesting a review consideration of the Decision made on June 24, 2013, granting the landlord an order of possession.

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 tenant has applied based on ground 2 and 3 for review consideration.

### Issues

Does the tenant have new and relevant evidence that was not available at the time of the original hearing?

Does the tenant have evidence the director's decision or order was obtained by fraud?

### Facts and Analysis

The tenant writes in their application that they have new and relevant evidence that was not available at the time of the hearing,

"New and relevant evidence that proves that (JR) lied under oath about not receiving rent for June from me. The prove comes from social development

(welfare). Because she lied under oath at the June 24 hearing, all of her testimony must be disregarded...”

[Reproduced as written]

In this case, the tenant has submitted several cheque history (queary) issued by the ministry of social development. However, the matter that was before the arbitrator at the original hearing was whether or not to cancel a 2 Month Notice to End Tenancy for Landlord's Use of Property, which the notice was upheld.

The matter of unpaid rent was not an issue at the original hearing and the arbitrator made no finding. Therefore, I find the documents submitted are not relevant to the decision that was made on June 24, 2013.

The tenant writes in their application that the information the landlord submitted for the initial hearing was false “about not receiving rent for June...”

However, whether the landlord received rent for June or any other month was not an issued to be decided by the arbitrator. The arbitrator in the hearing heard arguments from both parties on the issue of whether or not to cancel a notice to end tenancy for landlord's use of property and made a decision based on the evidence presented. The tenant has not provided evidence that the decision was obtained by fraud this is not an opportunity for the tenant to reargue the case. Therefore, I find the tenant has failed to prove the decision or order was based on fraud.

### Decision

Based on the above, the application and on a balance of probabilities, I find the tenant's application for review consideration must be dismissed.

**Therefore, I find the Decision and orders made on June 24, 2013, stand and remain in full force and effect. The tenant's application for review is dismissed.**

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 02, 2013

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Residential Tenancy Branch