



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNR OPC OPR

Introduction

This review consideration decision is in response to an application for review by the Tenant filed pursuant to section 79 of the *Residential Tenancy Act (Act)*. Specifically, the Tenant is requesting a review of the decision made by an Arbitrator on November 16, 2012. In her decision the Arbitrator determined that the Landlord was entitled to a monetary order in the amount of \$1,093.00 for unpaid rent and the cost of filing the Application for Dispute Resolution.

Section 79 of the *Act* reads:

- (1) A party to a dispute resolution proceeding may apply to the director for a review of the director's decision or order.
- (2) A decision or an order of the director may be reviewed only on one or more of the following grounds:
 - (a) a party was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control;
 - (b) a party has new and relevant evidence that was not available at the time of the original hearing;
 - (c) a party has evidence that the director's decision or order was obtained by fraud.

The Tenant is requesting the review on the basis that she was unable to attend the hearing because of circumstances that could not be not be anticipated and were beyond the party's control and because she has evidence that the decision and Order were obtained by fraud.

Preliminary Matter

The Tenant requested an extension of time to apply for the review.

The evidence shows that the Tenant submitted her Application for Review Consideration on July 09, 2013. In her Application for Review Consideration the Tenant

declared that she received the decision on July 05, 2013 and she received the Order on July 08, 2013. As the Tenant appears to have submitted the Application within the legislated time limit, I find there is no need to consider her request for an extension of time to submit the Application.

Issues

Has the Tenant established grounds for a review of the decision/Order, pursuant to sections 79(2)(a) or 79(2)(c) of the *Act*?

Facts and Analysis

The evidence shows that the Tenant was present at the hearing on November 16, 2012. I therefore dismiss the Tenant's application for a review on the basis that she was not able to attend the hearing, pursuant to section 79(2)(a) of the *Act*.

In support of her application that the decision and Order were obtained by fraud, the Tenant declared that the "residential form" is not signed by her and that the Arbitrator noted this during the conference. As there is no evidence to show that the Landlord declared that this form had been signed by the Tenant and it appears that the Arbitrator was made aware that it had not been signed when she rendered her decision, I cannot conclude that the Landlord presented fraudulent evidence regarding the presence of a signature or that the Arbitrator based her decision on the basis of this form being signed by the Tenant.

In support of her application that the decision and Order were obtained by fraud, the Tenant declared that the Arbitrator had declared that the Tenant needed to receive her damage deposit before the Landlord could pursue the application; that she has not yet received her damage deposit; that "it" says I paid \$500.00 for a damage deposit; and that she actually paid \$700.00. As the security deposit was not a subject of this dispute resolution proceeding, I find that any allegedly fraudulent evidence regarding the deposit could not have been relevant to the decision that rent was in arrears.

In support of her application that the decision and Order were obtained by fraud, the Tenant declared that she was not reimbursed for painting and cleaning the rental unit. As money owed to the Tenant for painting and cleaning was not a subject of this dispute resolution proceeding, I find that any money owed to the Tenant was not relevant to the decision that rent was in arrears.

In support of her application that the decision and Order were obtained by fraud, the Tenant declared that she "did not agree to the obligations on form". Without more details on what the Tenant means by this declaration, it does not cause me to conclude that the decision was based on fraudulent evidence.

Decision

Section 81 of the *Act* reads:

- (1) At any time after an application for review of a decision or order of the director is made, the director may dismiss or refuse to consider the application for one or more of the following reasons:
 - (a) the issue raised by the application can be dealt with by a correction, clarification or otherwise under section 78 [*correction or clarification of decisions or orders*];
 - (b) the application
 - (i) does not give full particulars of the issues submitted for review or of the evidence on which the applicant intends to rely,
 - (ii) does not disclose sufficient evidence of a ground for the review,
 - (iii) discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied, or
 - (iv) is frivolous or an abuse of process;
 - (c) the applicant fails to pursue the application diligently or does not follow an order made in the course of the review.
- (2) A decision under subsection (1) may be based solely on the written submissions of the applicant.

I dismiss the Tenant's application for review, pursuant to section 81(1)(b)(ii) of the *Act*, as she has failed to disclose sufficient evidence of a ground for review.

The decision and Order, dated November 16, 2012, 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 22, 2013

Residential Tenancy Branch