



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF LRE OLC

Introduction

This review consideration decision is in response to an application for review by the Landlord filed pursuant to section 72 of the *Manufactured Home Park Tenancy Act* (Act). Specifically, the Landlord is requesting a review of the decision made by an Arbitrator on July 10, 2013.

In his decision, the Arbitrator cancelled a Notice to End Tenancy that was served to the Tenant; he accepted the Tenant's testimony that they have a tenancy agreement on this site; he determined that the Landlord must comply with the Act if he wants to gain entry to the property; he awarded the Tenant an Order of Possession that is valid to the end of the tenancy or to June 1, 2014; he ordered the Landlord to obtain written or verbal consent from the Tenant prior to entering the property unless there is an emergency situation; and he authorized the Tenant to reduce the August rent by \$50.00.

Section 72 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 Landlord is requesting a review on the basis that the decision was obtained by fraud, pursuant to section 71(2)(c) of the Act.

Issues

Has the Landlord established grounds for a review of the Arbitrator's decision/Order, pursuant to section 71(2)(c) of the Act?

Facts and Analysis

In the Application for Review Consideration the Landlord declared that the Tenant did “not include welding shop enterprises”; that there is business registered in the name of the male Tenant; and the Tenant “stated residential and left out commercial”.

The Landlord a document that indicates there is a business in the name of the male Tenant.

The Landlord submitted photographs which appear to indicate that there is a shed attached to a manufactured home which appears to have a commercial purpose. The Landlord also submitted photographs of a sign for a mill righting/welding business in the name of the male Tenant.

In a hand written document submitted by the Tenant in support of the Application for Dispute Resolution, the Tenant declared that they have moved everything “except the two small shops and our house”. The Tenant further declared that “we have a small mobile welding and millwrighting business.”

In handwritten notes made by the Arbitrator during the hearing he makes reference to the Tenant having a mobile and shop.

As the information provided by the Landlord in the Application for Review Consideration appears to be consistent with the information that was before The Arbitrator at the time of the hearing, I cannot conclude that his decision and/or Order were obtained by fraud.

Decision

Section 74 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 73 [*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 Landlord's application for review, pursuant to section 81(1)(b)(ii) of the *Act*, as he has failed to disclose sufficient evidence of a ground for review.

The Arbitrator's decision and Order, dated July 10, 2013, 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 27, 2013

Residential Tenancy Branch