



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW CONSIDERATION DECISION**

Dispute Codes    CNR

### Basis for Review Consideration

Section 79(2) of the Residential Tenancy Act (Act) states that 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.

### Applicant's Submission

The application for review consideration states the decision should be reviewed on the grounds of new and relevant evidence and fraud.

The tenant submitted copies of correspondence, a tenancy agreement and rent receipts as new evidence and claimed that the decision was obtained by fraud because there was false information presented at the hearing.

### Analysis

The decision in question is not a decision which was made on the merits of the claim before the Arbitrator. Rather, it is a record of a settlement agreement. At the hearing, the tenant and landlord agreed that the tenancy would end on October 20, 2013.

Section 81(1)(b)(iii) of the Act allows the director to dismiss an application for review if the application 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. I find that even if the Arbitrator had had the evidence before him or had been aware that the

tenant considered the landlord's testimony to be false, his decision would not have differed as he merely recorded what the parties agreed to at the hearing.

It is not open to either party to apply to this branch to set aside the settlement agreement as this is not a statutory ground for review.

Conclusion

The tenant does not have grounds for review and I therefore dismiss the Application for Review Consideration. The original decision and order issued on October 1, 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: October 9, 2013

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Residential Tenancy Branch

