



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

### Introduction

This Application was filed by landlord, PJS, on July 23, 2013, seeking a Review Consideration of the Decision dated July 08, 2013 and having received that decision by mail on July 22, 2013. The Decision dismissed the landlord's application, without leave to reapply and based on the tenant's application, granted the tenant a monetary order of \$900.00.

Division 2, Section 79(2) under the *Residential Tenancy Act* says a party to the dispute may apply for a review of a 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.

Landlord, PJS, has applied on the third ground.

### Issue

- Has the landlord provided sufficient evidence that the director's decision was obtained by fraud?

### Facts and Analysis

The Application contains information under section C3, from the landlord alleging that the director's decision was obtained by fraud.

The landlord writes in his Application:

“Tenant did not move out on 31<sup>st</sup> he moved out on 1<sup>st</sup> April late night so he return the key on April 2/2013 late evening. Arbitration Did not Look AT the Letter he handwritten notice saying that he termination his tenancy on March 1/2013. He wants us not to renovate the apt forwhile because he was going to hospital. So two month Notice was ended when he terminate his Rendency.”

[Reproduced as written]

The landlord also writes in his Application under “How did the person who submitted the information know it was false”:

“Because He signed new Agreement my care taker findout when he went to get rent on the 1<sup>st</sup> of April at 12 noon he was moving out he said he is not going to stay. How does he qualify the one free month although he terminate his occupancy on March 1/2013 Tenant pass Tenancy Agreement with another Tenant according to (tenant MS) statement.”

[Reproduced as written]

The landlord also writes in his Application under “How do you think the false information was used to get the desired outcome?”:

“He said He met the care take on the 7<sup>th</sup> Ave not the rental unit How the Tenant lost his enjoyment of the Apt. No one Bothered him if caretaker ask him if he signed the paper I need them because he wants to know if he is staying or not why – caretake dont have right to ask or communicate that communication took place on 7<sup>th</sup> Ave Not 4<sup>th</sup> Ave.”

The landlord submitted the decision dated July 08, 2013, residential tenancy agreement, one page of hand written notes, pages 5 and 7 of the tenant’s original evidence, and a document dated March 1, 2013 that was part of the landlord’s original evidence package at the original hearing.

### Decision

Based on the above, the evidence and Application submitted, and on a balance of probabilities, I find the following.

In order to be successful on the third ground for Review, the landlord must prove, based on a balance of probabilities, that the director's decision was based on fraud. The landlord writes:

"Tenant did not move out on 31<sup>st</sup> he moved out on 1<sup>st</sup> April late night so he return the key on April 2/2013 late evening. Arbitration Did not Look AT the Letter he handwritten notice saying that he termination his tenancy on March 1/2013. He wants us not to renovate the apt forwhile because he was going to hospital. So two month Notice was ended when he terminate his Rendency."

"Because He signed new Agreement my care taker findout when he went to get rent on the 1<sup>st</sup> of April at 12 noon he was moving out he said he is not going to stay. How does he qualify the one free month although he terminate his occupancy on March 1/2013 Tenant pass Tenancy Agreement with another Tenant according to (tenant MS) statement."

"He said He met the care take on the 7<sup>th</sup> Ave not the rental unit How the Tenant lost his enjoyment of the Apt. No one Bothered him if caretaker ask him if he signed the paper I need them because he wants to know if he is staying or not why – caretake dont have right to ask or communicate that communication took place on 7<sup>th</sup> Ave Not 4<sup>th</sup> Ave."

[Reproduced as written]

For the landlord to be successful on the third ground, the landlord must provide sufficient evidence to support that the director's decision was based on fraud. All but one page of the landlord's evidence had been submitted in evidence by either tenant or the landlord for the original hearing. The Arbitrator writes in her decision dated July 08, 2013, "The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed." The Arbitrator also writes in her decision, "I have considered all of the affirmed testimony and relevant evidence that was properly served."

The remaining page of the landlord's evidence, the hand written page, alleges that the Arbitrator failed to see the "signature end of tenancy" and makes references to the details reproduced as written above.

In regard to the landlord's claim of fraud, **I find** that the landlord's Application merely consists of the landlord attempting to re-argue the matter. The fact that the landlord disagrees with the conclusion reached by the Arbitrator does not amount to fraud. **I find** the landlord has provided insufficient evidence to prove his claim that the director's

decision was obtained by fraud. Therefore, I **dismiss** the landlord's Application due to insufficient evidence.

As the landlord's Application has been dismissed on the third ground, the decision and order made on July 08, 2013, **stand and remain in full force and effect**.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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

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Residential Tenancy Branch