



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes OPC

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 ground of new and relevant evidence that was not available at the time of the hearing. In his application for review the applicant states "*that the property was cleaned inside and out was nothing in yard*". The applicant did not file any documentation to support his application for review.

Analysis

Leave may be granted on this basis if the applicant can prove that:

- he or she has evidence that was not available at the time of the hearing;
- the evidence is new,
- the evidence is relevant to the matter before the Dispute Resolution Officer,
- the evidence is credible, and
- the evidence would have had a material effect on the decision.

Only when the applicant has evidence which meets all five criteria will a review be granted on this ground.

It is up to a party to prepare for an arbitration hearing as fully as possible. Parties should collect and supply all relevant evidence to the arbitration hearing. Evidence which was in existence at the time of the original hearing, and which was not presented by the party, will not be accepted on this ground unless the applicant can show that he or she was not aware of the existence of the evidence and could not, through taking reasonable steps, have become aware of the evidence.

The tenant testified that the property was cleaned up by him. This testimony was considered by the Arbitrator in the making of the decision. In his decision the Arbitrator states *"Although the Tenant testified that the property has been brought to acceptable standards the Tenant has not provided any corroborating evidence to support his position."*

Based on the above, I find that the condition of the rental unit at the time of the hearing was discussed and considered in the making of the decision. The tenant did not file evidence to indicate the condition of the property at the time of the hearing even though he intended to use it as his defence. Providing evidence after the hearing, about the condition of the property at the time of the hearing is not new evidence. In any event, the tenant has not filed any evidence with his application for review.

The applicant has failed to establish grounds for review in this tribunal and accordingly, I find that the application for review must fail. For the above reasons I dismiss the application for leave for review.

Conclusion

I dismiss the Application for Review Consideration. The original decision made on August 16, 2013 is 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: August 29, 2013

Residential Tenancy Branch

