



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Introduction

The original dispute resolution hearing on the application of the tenant was held on July 23, 2013, and a Decision was issued by another Arbitrator on July 23, 2013, dismissing the tenant's application seeking cancellation of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") and granting the landlord an order of possession for the rental unit.

This is a request by the tenant for a review of that original Decision.

The tenant applied for a review on the ground that he has evidence that the Decision of July 23, 2013, was obtained by fraud, pursuant to Section 79(2) under the *Residential Tenancy Act*

Issues

Has the applicant for review provided sufficient evidence to support the indicated ground for review?

Facts and Background

In his application for review consideration to support his allegation that the Decision of the Director was obtained by fraud, the tenant stated that the amount of unpaid rent said to be owed was false and that the landlord said they “sometimes do not give proper receipts for cash pay.

The tenant also queried as to why he was never evicted prior to the Notice in question if in fact he did owe \$5680, again in support of his allegation of fraud.

The Decision of July 23, 2013, recites that the tenant disagreed that he owed \$5680 as he had an employment contract for services with the landlord, which the landlord denied. The tenant did agree that he owed some amount of unpaid rent.

The Decision also recited that the tenant argued that the landlord has accounting department problems and that receipts are not always given for payments.

Evidence the Decision was obtained by fraud-

As written evidence to support their claim, the tenant supplied nothing.

Analysis on Review

Residential Tenancy Policy Guideline #24 provides, among other things, that the party alleging fraud must allege and prove new and material facts, or newly discovered and material facts, which were not known to the applicant at the time of the hearing, and which were not before the Arbitrator.

When claiming fraud, it is not enough to allege that the opposing party made false statements at the hearing, which were met by a counter-statement by the applicant for review, and the evidence as a whole was adjudicated upon by the Arbitrator.

Further the applicant is required to submit sufficient evidence with their application to prove their allegation.

In this case, I find the applicant/tenant provided no evidence and merely restated testimony given at the hearing. A review of the original Decision shows that these same allegations of the tenant were duly taken into consideration by the Arbitrator in rendering the decision.

I therefore concluded that the tenant's submissions were before the Arbitrator at the hearing.

It is evident that the tenant has taken issue with the outcome of the hearing; however the fact that the applicant/tenant disagrees with the conclusion reached by the Arbitrator does not amount to fraud.

I therefore do not accept the applicant/tenant's claim that the Decision was obtained by fraud and I find that the tenant has not presented evidence to support his application.

Decision

Due to the above, I dismiss the tenant's application for review consideration and confirm the original Decision and order of possession for the rental unit of July 23, 2013.

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 02, 2013

Residential Tenancy Branch