



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

### Introduction

This application was filed by the tenant, requesting a review consideration of the Decision made on July 25, 2013.

Division 2, Section 79(2) under the *Residential Tenancy Act* says 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.

The tenant has applied based on ground 2 for review consideration.

### Issues

Does the tenant have new and relevant evidence that was not available at the time of the original hearing?

### Facts and Analysis

The tenant writes in their application that they have new and relevant evidence that was not available at the time of the hearing, "The evidence was over looked by the (name of arbitrator), while making her decision, as per my enclosed two (2) page statement, indicating where evidence was ignored, as per the pages and paragraphs where she made incorrect statements – All of the matters applied for were not taken into consideration".

[Reproduced as written]

The Residential Tenancy Policy Guideline #24 defines new evidence as evidence that has come into existence since the dispute resolution hearing. It also includes evidence which the applicant could not have discovered with due diligence before the dispute resolution hearing.

In this case, the tenant argues that the arbitrator overlooked their evidence when making their decision. However, this evidence was presented at the original hearing. The arbitrator heard arguments from both parties and made a decision based on the evidence presented. This is not an opportunity for the tenant to reargue the case. Therefore, I find the tenant has failed to prove that they have new or relevant evidence.

### Decision

Based on the above, the application and on a balance of probabilities, I find the tenant application for review consideration must be dismissed.

**Therefore, I find the Decision and orders made on July 25, 2013, stand and remain in full force and effect. The tenant's application for review is dismissed.**

This decision is final and binding on the parties, except as otherwise provided by 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: August 12, 2013

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Residential Tenancy Branch