



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

### Introduction

On July 24, 2013 a dispute resolution hearing was conducted to resolve a dispute between these two parties. The Tenant had applied for an order for more time to make an application to cancel a notice to end tenancy issued for cause and if allowed to cancel a notice to end tenancy issued for cause. Both parties attended the hearing and gave evidence. The Tenant's application for more time was denied. The Landlord made an oral request for an order of possession and was granted such. The Tenant has applied for a review of this decision.

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 applicant has selected two reasons for review.

### Issues

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

Does the applicant have evidence that the decision or order obtained by fraud?

### Facts and Analysis

The applicant states, "I was never told that medical letter was necessary when I applied any my application was application and I was set to have hearing."

The applicant also states, "The appeal was all stemmed from the previous eviction notice where I was alleged to have conducted illegal activity "in the suite." All the allegation was unfound and not substantiated as there were no facts and evidence."

The Landlord has also submitted a letter dated July 26, 2013 from her doctor, W.K.C., who states that the Tenant was under their care with OTC pain killers.

Although the Tenant has provided relevant evidence, this evidence is not new as noted on the letter from the doctor dated July 26, 2013. The applicant has failed to provide sufficient evidence to satisfy me on the grounds of new and relevant evidence. The original decision dated July 24, 2013 took the Tenant's reason for more time into consideration regarding a medical reason. The Arbitrator in that hearing was not satisfied based upon the evidence provided by the Tenant during that hearing. The onus or burden of proof lies with the party who is making the claim. In this case it was the responsibility of the Tenant to provide evidence for the hearing to satisfy the Arbitrator of their claim. The Tenant failed to do so.

The applicant has also failed to provide sufficient evidence to state how the decision or order was obtained by fraud. Based upon the written decision dated July 24, 2013, the reasons of the original notice was not dealt with and the order of possession was granted because the Tenant failed to apply for dispute resolution within the allowed time frame. The Tenant failed to satisfy the requirements for more time and an extension of the application to cancel the notice to end tenancy was denied. The merits of the notice to end tenancy were not addressed.

### Decision

The Tenant's application for review is denied.

The decision made on July 24, 2013 stands.

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

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Residential Tenancy Branch