



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Introduction

On August 21, 2013 a dispute resolution hearing was conducted via the Direct Request process to resolve a dispute between these two parties. The Landlord had applied for an order of possession for unpaid rent. The Landlord's Application was granted. 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.

Issues

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

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

Facts and Analysis

The Tenant has stated that rent in full was paid on the due date of August 1, 2013 via a cash payment of \$1,500.00 and a cheque for \$70.00 and that the Landlord for unknown reasons refused the combination of a cash/cheque payment from the Tenant on August 2, 2013. The Tenant further states that the Landlord was continuously evasive despite the Tenant's efforts to arrange to pay rent thereafter via cash. The Tenant states that the Landlord served the Tenant a 10 day notice to end tenancy for unpaid rent on August 13, 2013 but submitted a document back dated to August 2, 2013 to obtain the

order for his benefit. The Tenant has submitted copies of the receipt for a \$1,500.00 cash payment to the Landlord, the original un-cashed cheque for \$70.00.

In reviewing the original file for the Landlord's Application, I found that there was nothing to suggest that the proof of service document for the 10 day notice to end tenancy was not accurate. The document states that the Tenant at 1508 was a witness to the Landlord posting the 10 day notice to end tenancy dated August 2, 2013 was posted to the rental unit door. The Tenant has not provided sufficient evidence to satisfy me the 10 day notice was not served. The Tenant has only provided a written argument stating that it was not served.

The "original cheque" submitted by the Tenant to the Landlord was incomplete and could not be processed by a bank. The cheque was not filled in to the "payee" and the numerical value for the cheque was not filled in.

As such, I find the Tenant has failed to provide sufficient evidence to satisfy me that there is new and relevant evidence that could change the outcome of the decision. As well, the Tenant has not provided sufficient evidence of any fraud.

Decision

The Tenant's Application for review is denied.

The decision made on August 21, 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 23, 2013

Residential Tenancy Branch