



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MND MNDC MNR MNSD

Introduction

This Application was filed by the landlord, on September 24, 2013, seeking a Review Consideration having received the Decision dated August 26, 2013 and received at the post office by the landlord on September 16, 2013. In the Decision dated August 26, 2013 the Arbitrator found the landlord was partially successful with his claim and granted the landlord a monetary order in the amount of \$3,235.00. The landlord did not complete his Review Application in full as the landlord failed to indicate whether he was applying for a Review of the Decision, Order or both.

Division 2, Section 79(2) under the *Residential Tenancy Act* says a party to the dispute may apply for a review of a 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 landlord has applied on the third ground.

Issue

- Has the landlord provided sufficient evidence that the director's decision was obtained by fraud?

Facts and Analysis

I find the landlord did submit his Review Application within the required timelines as set out in section 80 of the *Act*. Although the landlord failed to complete the Review

Application by indicating whether he was applying for a Review of the Decision, Order or both, I will assume the landlord is applying to Review both the Decision and the Order in the interests of fairness.

The Application contains information under section C3, from the landlord alleging that the director's decision was obtained by fraud.

The landlord writes in his Application:

"[Name of female tenant] Last Day of moving her passions 16 Dec 2011 [Name of male tenant] STATED THAT HE was working in Vancouver He did Not Return until 18 Dec. He watched me do cleaning and scrubbing. He also stated that I should Dump the contents of Dog hair mud and Dirt Into [Name of female tenants] filing cabinet. He stood beside me and agreed that no cleaning was done I told him what MollyMaid charged for cleaning what Mrs. Clean charged and that I charged \$20.00 he said OK. THEN Later I could of Hired a student for Less."

[Reproduced as written]

The landlord also writes in his Application under "How did the person who submitted the information know it was false":

"They Heard the Telcon of the Resolution EVERY Day I was cleaning and working [name of witness] witnessed my progress THE OTHER WITNESS visted and saw the mess [name of female]."

[Reproduced as written]

The landlord also writes in his Application under "How do you think the false information was used to get the desired outcome?":

"I do think THAT THE Removal of the GRAVEL may have Ruled in his Favor Approx 3 ½ mon and made no effort, his reason was bad weather I'm over seventy. I also would like to be reimbursed for Bailf Fees for locating and serving [name of female tenant]: \$537.52."

The landlord did not submit any evidence in support of his Review Application.

Decision

Based on the above, the evidence and Application submitted, and on a balance of probabilities, I find the following.

In order to be successful on the third ground for Review, the landlord must prove, based on a balance of probabilities, that the director's decision was based on fraud. The landlord writes:

"[Name of female tenant] Last Day of moving her passions 16 Dec 2011 [Name of male tenant] STATED THAT HE was working in Vancouver He did Not Return until 18 Dec. He watched me do cleaning and scrubing. He also stated that I should Dump the contents of Dog hair mud and Dirt Into [Name of female tenants] filing cabinet. He stood beside me and agreed that no cleaning was done I told him what MollyMaid charged for cleaning what Mrs. Clean charged and that I charged \$20.00 he said OK. THEN Later I could of Hired a student for Less."

"They Heard the Telcon of the Resolution EVERY Day I was cleaning and working [name of witness] witnessed my progress THE OTHER WITNESS visted and saw the mess [name of female]."

"I do think THAT THE Removal of the GRAVEL may have Ruled in his Favor Approx 3 ½ mon and made no effort, his reason was bad weather I'm over seventy. I also would like to be reimbursed for Bailf Fees for locating and serving [name of female tenant]: \$537.52."

[Reproduced as written]

For the landlord to be successful on the third ground, the landlord must provide sufficient evidence to support that the director's decision was based on fraud. The landlord failed to provide any supporting evidence in support of his Review Application.

In regard to the landlord's claim of fraud, **I find** that the landlord's Application merely consists of the landlord attempting to re-argue the matter. The fact that the landlord disagrees with the conclusion reached by the Arbitrator does not amount to fraud. **I find** the landlord has provided insufficient evidence to prove his claim that the director's decision was obtained by fraud. Therefore, **I dismiss** the landlord's Application due to insufficient evidence.

As the landlord's Application has been dismissed on the third ground, the decision and order made on August 26, 2013, **stand and remain in full force and effect.**

This decision is final and binding on the parties, unless otherwise provided under 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: September 26, 2013

Residential Tenancy Branch