



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNDC OLC OPT RPP

Introduction

On August 12, 2013 a dispute resolution hearing was conducted to resolve a dispute between these two parties. The Tenant had applied for a monetary order for money owed or compensation for damage or loss, an order that the Landlord comply with the Act, an order to force the Landlord to return the Tenant's personal property and an order of possession for the Tenant. Both parties attended the hearing by conference call and gave testimony. The Tenant's monetary claim was granted. The Landlord 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 relies on reasons 2 and 3 as noted above.

Issues

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

Does the Landlord have evidence that the decision was obtained by fraud?

Facts and Analysis

The applicant states, "E enter the house middle march 2013. Between mid march to beginning April have new important letters and proofs. Very important to prove E was not a tenant. Also support letters from several other people." The applicant has submitted a copy of a 10 day notice to end tenancy dated March 26, 2013, a typed letter dated September 1, 2013 and two handwritten letters dated March 20, 2013.

The applicant also states, "E was lying lying lying. He never paid rent or deposit and he said he lost receipt. Fact: never paid, no receipt. E pretended lost keys to obtain keys from someone in house. E lied from very beginning. He said he torture by his wife. "Hardworking, nice guy". Everything in the hearing E was lying...."

I find that the applicant has failed to provide sufficient evidence of new and relevant evidence. The Landlord has failed to explain why the letter dated September 1, 2013 though possibly relevant was not available at the time of the original hearing. It is clear that the content describes issues prior to the hearing date as well that the Landlord had access to this information at that time. I find that the applicant is seeking to reargue the merits of the case without sufficient evidence of new and relevant evidence. This portion of the application is dismissed.

As for the Landlord's application that the decision was obtained by fraud, I find that the Landlord has failed to provide sufficient evidence of fraud. The applicant has referred to the Tenant's evidence from the original hearing, but has not provided sufficient evidence. The applicant is seeking to reargue the merits of the Tenant's evidence from the original hearing and has not provided anything relevant that could change the outcome of the decision. This portion of the application is dismissed.

Decision

The application for review is denied.

The decision made on August 12, 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: September 06, 2013

Residential Tenancy Branch