



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNR MNSD OPR

Introduction

This Review Application was filed by the tenant on October 03, 2013, seeking a Review Consideration of the Decision dated September 13, 2013 and received by the tenant by mail on October 03, 2013. The Decision resulted in the tenant's application to cancel a One Month Notice to End Tenancy being dismissed.

Division 2, Section 72(2) under the *Manufactured Home Park Tenancy Act* (the "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 on the third ground.

Issue

- Did the tenant provide sufficient evidence to prove that the director's decision was obtained by fraud?

Facts and Analysis

Firstly, I will deal with whether the tenant filed her Review Application within the required timelines under the *Act*. I find the tenant did submit her Review Application within the required timelines defined under section 73 of the *Act* having received the Decision on October 03, 2013 and filing her Review Application on October 03, 2013.

The Application contains information under section C3. Section C3 of the application indicates to the applicant that three elements are required to show a decision or order was obtained by fraud:

1. False information was submitted
2. The person submitting the evidence knew that it was false, **and**
3. The false information was used to get the desired outcome.

The tenant writes in her Application regarding “which information submitted for the initial hearing was false and what information would have been true?”:

“Information supplied by [SM] is false
 Information supplied by [EB] is false
 Information or the way information was supplied by
 [JD] was like it was on a personal level the yelling. [The Arbitrator] told me he
 had my documents!! Not true!! See back!!”

[Reproduced as written]

The tenant writes in her Application regarding “How did the person who submitted the information know it was false?”:

“The distance this person was from my home would be very hard to believe what she said was true, so this makes me believe she made it up. I have been in my place since and No evidence she gave was proven. Going back on Sat to provide proof.”

[Reproduced as written]

The tenant writes in her Application regarding “How do you think the false information was used to get the desired outcome?”:

“I believe the false information is what were the grounds for me to lose my claim I also believe by me not being able to finish my statement or finishing giving my information caused this ground to lose my claim out of a call that went over 1 hr mark to spoke maybe 10 to 15 mins”

[Reproduced as written]

The tenant did not submit evidence in support of her Application but does write on the last page of her Application:

“I sent in an e-mail with all my documents and on the day of my call I received an e-mail from your office saying not accepted even though [the Arbitrator] said he had them”.

[Reproduced as written]

Decision

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

The tenant is alleging that the director's decision was obtained by fraud, however, the tenant has not provided any evidence in support of her Application. At the very least, for the tenant to prove fraud, I would have expected the tenant to have submitted evidence in support of her Application which the tenant failed to do.

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

Given the above, the Decision dated September 13, 2013, stands and remains 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 *Manufactured Home Park Tenancy Act*.

Dated: October 10, 2013

Residential Tenancy Branch