



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Decision: Leave for Review Denied

Original Decision and Order dated August 19, 2013 confirmed

Introduction

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.

REVIEW DECISION

The applicant has applied on the grounds that a party has evidence that the director's decision or order was obtained by fraud. When asked to describe or list the fraudulent evidence, the applicant stated lied throughout the original hearing. The tenant was present at the original hearing and was given an opportunity to dispute any and all of the landlords' evidence. The Arbitrator in that matter issued a decision based on the testimony and documentation provided for that hearing. The tenants' review application essentially is trying to have the matter reheard which is not the function of the review process. In addition the tenant has failed to provide sufficient evidence that would have altered the original decision. The tenant is relying on a letter from a neighbor, but in that

letter the neighbor is not certain to whether the light was “triggered” on the day in question.

Section 81 of the Act clearly addresses the issue before me.

81 (1) At any time after an application for review of a decision or order of the director is made, the director may dismiss or refuse to consider the application for one or more of the following reasons:

- (a) the issue raised by the application can be dealt with by a correction, clarification or otherwise under section 78 *[correction or clarification of decisions or orders]*;
- (b) the application
 - (i) does not give full particulars of the issues submitted for review or of the evidence on which the applicant intends to rely,
 - (ii) does not disclose sufficient evidence of a ground for the review,
 - (iii) **discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied**, or
 - (iv) is frivolous or an abuse of process;
- (c) the applicant fails to pursue the application diligently or does not follow an order made in the course of the review.

Based on the above and the insufficient evidence submitted, I dismiss the tenants' application.

The decision and order made on August 19, 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 03, 2013

Residential Tenancy Branch