



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 September 24, 2013 confirmed

Dispute codes: MNR OPR

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 applicants have applied on the grounds that they were unable to attend the original hearing because of circumstances that could not be anticipated and were beyond the party's control. The applicant stated that her daughter went into labour and that she did not return home for five days. The applicant has not provided any documentation from the hospital to reflect this and as a result I dismiss this portion of the tenants' application.

The applicants have also 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 that a previous matter had addressed this

issue and they provided a file number. In addition the applicant has stated that they had not been served. I have reviewed the documentation provided by the tenant and the file itself. The previous decision granted the landlords leave to reapply which they did. The tenants also stated the rent cheque “went thru”. The landlord has submitted a copy of a returned cheque to support their claim. The landlords provided receipts and tracking numbers to prove service. The tenants have not provided any evidence to dispute the service from Canada Post and I therefore dismiss this portion of their application. It is worth noting that section 81 of the Act clearly addresses the issues before me as follows:

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;

For the above reasons I dismiss the application for leave for review. The original decision and order dated September 24, 2013 is confirmed.

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: October 10, 2013