



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNDC

Introduction

On October 2, 2013 a hearing was conducted to resolve a dispute between these two parties. The Tenants had applied for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement. The Landlord did not attend the hearing. The Tenant's application was granted. The Landlord has applied for 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.

Issues

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

Facts and Analysis

The application contains information under Reasons Number 3.

Under false evidence submitted, how the person who submitted the information knew it was false and how the false information was used to get the desired outcome, the applicant has stated 3 questions. "The information submitted for the initial hearing was mostly false as follows. The issue of a broken hot water tank was never discussed either before or during the tenancy. There was and always had been a sump pump in the crawl space under the house and the tenants were fully aware of this fact before the

tenancy began. There was never at any time waist high water in the crawl space. Even if there was a leak in the water tank, there was no need to go onto the crawl space as the tank was located just inside the rear entrance door to the house on the main floor. ...The rent was not reduced to \$600.00 per month April 1, 2013 as stated, ... Question #2, The tenant new the information was false for the following reasons. The tenants rarely called us by telephone it was by email or text. We absolutely have no record of any issue with the hot water tank leaking in our email or text history....If the crawl space had been waist high with water all those month, the furnace would not have worked as it sits on the floor of the crawl space on 4 inch blocks. Question #3, It is our opinion that the tenants false testimony was for financial gain and to hid other issues within the house that caused the spike in hydro costs.”

I find that the applicant seeks to re-argue the case as if they were to have attended the original hearing dated October 2, 2013. The applicant has failed specify what false evidence was used by who and how it was used to gain the desired outcome for the Tenant. The original decision was made based upon the Tenants evidence of excessive hydro meter reading of more than 50 kwh of power per day and that it was found that the Landlord failed to repair the hot water tank which caused the excessive consumption. The applicant has not provided any evidence of fraud.

Decision

The Landlord's application is dismissed for lack of sufficient evidence of fraud.

The decision made on October 2, 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: October 29, 2013

Residential Tenancy Branch