



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute codes: MNR OPR

### Introduction

Under the Direct Request procedure, an Order of Possession and Monetary Order were issued to the landlord for unpaid rent on November 4, 2013. The tenant indicated on the Application for Review that he received the Orders on November 8, 2013 and the decision on November 12, 2013. The Act permits a party to a dispute to file a Request for Review Consideration within certain time limits. I have accepted that the tenant has filed this Application within those time limits.

On November 19, 2013 a typographical error that was made in typing the rental unit address on the decision and Orders was corrected by the Arbitrator who issued the original decision and Orders on November 4, 2013. As the decision and Orders were not otherwise changed upon correction, this review consideration decision applies to the decision and Orders issued on November 4, 2013 and corrected on November 19, 2013.

Section 79(2) of the Act provides that a party to the dispute may apply for a review of the decision or order. The tenant has filed this Application for Review on the ground he has evidence that the Director's decision or order was obtained by fraud.

### Issues

Has the tenant provided evidence that the decision and Orders were obtained by fraud?

### Background and Evidence

The tenant submitted a lengthy written submission, including citations of court cases, in support of his position that the landlord obtained the decision and Orders by fraud. I have summarized the tenant's position below.

The tenant submitted that the landlord did not submit certain documents, namely emails and notes, exchanged between the parties prior to the signing of the tenancy agreement. The tenant submits that the emails and notes are a contract between the

parties (referred to a contract #1 in his submissions) and that contract #1 bears on the tenancy agreement. The tenant submits that since the landlord did not provide evidence pertaining to contract #1, and only submitted the tenancy agreement in order to obtain the decision and Orders, the landlord was fraudulent by not disclosing material information that would affect the outcome of the decision.

The tenant did not provide copies of the email exchanges or notes to which he referred in his submissions.

The tenancy agreement submitted as evidence with the landlord's Application for Dispute Resolution was duly executed on August 30, 2013 and makes no reference to any other contract or agreement between the parties.

### Analysis and Findings

An Application for the Review Consideration must be accompanied by sufficient evidence to show that false evidence on a material matter was provided to the Residential Tenancy Branch, or that there was concealment of a material matter, and that this false evidence or concealment of a material matter was a significant factor in the decision. Further, the Application for Review must contain sufficient information and evidence for the person conducting the review to reasonably conclude that the new evidence, standing alone and unexplained, supports the allegation that the decision or order was obtained by fraud.

The tenant referred to emails and notes exchanged between the parties as having bearing on the tenancy agreement; however, the tenant did not provide copies of those documents with his Application for Review Consideration. Accordingly, I find his allegations that there are emails and notes in existence that would have a bearing on the tenancy agreement are unsupported by evidence.

In light of the above, I find the tenant has not provided provide sufficient evidence that the decision and Orders were obtained by fraud and I dismiss the Application for Review pursuant to section 81(1)(b)(ii) of the Act. Section 81 of the Act provides, in part:

### **Decision on application for review**

**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.

. . .

[my emphasis added]

As I have dismissed the tenant's Application for Review the decision and Orders, as corrected, stand and remain enforceable.

#### Decision

The tenant's Application for Review has been dismissed. The decision and Orders made on November 4, 2013, and corrected November 19, 2013, stand and remain enforceable.

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: November 22, 2013

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Residential Tenancy Branch