



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Vancouver Luxury Realty
and [tenant name suppressed to protect privacy]

REVIEW CONSIDERATION DECISION

Dispute codes: FF MNDC MNR MNSD

This is an application filed by the landlord for review of the decision and order of an Arbitrator. The applicant applied for review on the ground that applicant has new and relevant evidence that was not available at the time of the original hearing. The applicant said in the application: "Please see attached letter."

The landlord attached a two page letter to the application for review. The letter was headed: "**An official request to conduct a review of the decision handed down by an anonymous arbitrator, presumably associated with the Tenancy Branch.**" (reproduced as written) The opening paragraph stated as follows:

This is another Dispute "Resolution" which is as upsetting as it is outlandish. In the proper Court Process this decision would have been dismissed as fully biased, full of prejudice and dead wrong when it comes to facts.

The applicant criticised the decision under review as well as the Residential Tenancy Branch generally. The applicant said that: "Your encouragement of deplorable tenant behaviors such as breach of lease continues to be a theme in the most recent decisions handed down and I would like you to provide me with name and contact information of an office to which the Tenancy Branch Office answers to. I wish to file a formal complaint."

The applicant concluded the letter as follows:

Due to numerous erroneous unfair and skewed judgments within this arbitrator's decision, I request that the entire decision be reviewed and dismissed by your office.

The Residential Tenancy Policy Guideline #24 concerning Review applications contains the following passage:

New and relevant evidence

A review may be granted on this basis if the applicant can prove each of the following:
he or she has evidence that was not available at the time of the original hearing;
the evidence is new;
the evidence is relevant to the matter described in the initial application;
the evidence is credible; and
the evidence would have had a material effect on the original decision.

Prior to a hearing, parties must collect and supply all relevant evidence to the hearing. Evidence refers to any oral statement, document or thing that is introduced to prove or disprove a fact in a dispute resolution hearing. Letters, affidavits, receipts, records, audio, video, and photographs are examples of documents or things that can be evidence.

New evidence includes evidence that has come into existence since the dispute resolution hearing. It also includes evidence which the applicant could not have discovered with due diligence before the hearing. New evidence does not include evidence that could have been obtained, such as photographs that could have been taken or affidavits that could have been sworn, before the hearing took place.

Evidence in existence at the time of the original hearing which was not presented by the party will not be accepted on this ground unless the applicant can show that he or she was not aware of the existence of the evidence and could not, through taking reasonable steps, have become aware of the evidence.

Evidence is relevant if it relates to or bears upon the matter at hand, or tends to prove or disprove an alleged fact. Evidence that would have had a material effect upon the decision is such that if believed and when taken with the other evidence introduced at the hearing, it could reasonably be expected to have affected the result.

A mere suspicion of new evidence is not sufficient to support this ground for review consideration.

The landlord has not alleged any new and relevant facts. The review application is primarily an assertion that the arbitrator was biased and the decision was wrong in law and in its findings of fact. While the claims that the arbitrator was biased or that the findings of law or fact were incorrect may provide grounds for an application to the Supreme Court of B.C. for judicial review, they do not constitute a valid ground for review pursuant to my statutory authority under section 79 of the *Residential Tenancy*

Act. On the information provided by the landlord I am unable to conclude that the landlord has new and relevant evidence that was not available at the time of the original hearing. The landlord did not provide any new evidence with the application for review. The landlord's application for review on the ground that the landlord has new and relevant evidence is denied.

For the above reasons I dismiss the application for review. The original decision and order dated September 27, 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: November 18, 2013

Residential Tenancy Branch