



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR MNSD OPR

Introduction

This is an application by the tenant for a review of a decision and orders of the director dated December 3, 2013. The tenant applied for a review on the following grounds:

- A) he was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond his control;
- B) he has new and relevant evidence that was not available at the time of the original hearing; and
- C) he has evidence that the director's decision or order was obtained by fraud.

Issues

Has the tenant provided sufficient evidence to support one of the indicated grounds for review?

Facts and Analysis

Original Hearing and Decision

The original hearing dealt with the landlord's application for an order of possession and a monetary order for unpaid rent. The landlord called in to the teleconference hearing but the tenant did not. The landlord provided evidence that the tenant was served with notice of the hearing by registered mail sent on October 21, 2013. The arbitrator accepted the landlord's evidence of service and proceeded with the hearing in the absence of the tenant.

The notice to end tenancy for unpaid rent was dated October 7, 2013 and indicated that the tenant owed \$730 in unpaid rent as of October 1, 2013. The landlord's evidence showed that the tenant failed to pay \$270 of the rent for September 2013, as well as \$460 for October 2013, for a total of \$730 owing as of October 1, 2013. The arbitrator found that the tenant had been served with the notice to end tenancy for unpaid rent, had not paid the outstanding rent in full within the required time frame, and did not

dispute the notice. The arbitrator accordingly granted the landlord an order of possession and a monetary order.

Tenant's Submissions

In regard to the first ground for review, unable to attend, the tenant wrote that the landlord's manager did not want to deal with the tenant truthfully or honestly. The tenant did not indicate why he did not dispute the notice to end tenancy or attend the hearing.

In regard to the second and third grounds for review, new and relevant evidence and fraud, the tenant wrote that it was not clear to him why the landlord wanted the tenant to pay \$730, as set out in the notice, instead of the \$259 that the tenant believed he owed for September 2013.

Analysis on Review

The tenant's application for review on the ground that she was unable to attend the hearing fails. The arbitrator accepted the landlord's evidence regarding service of notice of the hearing. The tenant did not provide any evidence that he did not receive notice of the hearing, or that circumstances that could not be anticipated or were beyond his control prevented him from attending the hearing.

In regard to the grounds of new and relevant evidence and fraud, I find that the tenant's submissions in this application for review consideration merely consist of arguments that the tenant ought to have presented during the hearing. Further, the tenant indicated that he did not understand why the notice to end tenancy indicated that the tenant owed \$730 for September 2013; however, the notice clearly indicated that \$730 was owing as of October 1, 2013, based on an outstanding amount of \$270 for September 2013 and \$460 for October 2013. I therefore find that the tenant's review application cannot succeed on the grounds of new and relevant evidence or fraud.

A review hearing will only be granted where there is sufficient evidence to support one of the three grounds for review under section 79 of the Act. In this case, I find that the tenant has not provided sufficient evidence to establish that he has grounds for a review of the original decision and order.

Decision

I dismiss the application for review and confirm the original decision and orders of December 3, 2013.

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: December 10, 2013