



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Introduction

This is an application by the tenant for a review of a decision of the director dated December 9, 2013.

The tenant applied for a review on the grounds that he has new and relevant evidence that was not available at the time of the original hearing; and 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 hearing pursuant to the tenant's application was scheduled for December 6, 2013. The tenant did not attend the hearing but the landlord did. As the applicant tenant was not present and the respondent tenant was present and prepared to proceed, the tenant's application was dismissed without leave to reapply.

Tenant's Submissions

In the application for review, the tenant wrote that the new and relevant evidence was a letter from a former tenant stating that the move-in date of a relative of the landlord was after January 1, 2013. The tenant indicated that this letter was not available at the time of the hearing because it was in the basement in packing for a recent move, and he had to obtain a new letter.

In regard to the allegation of fraud, the tenant submitted that in a hearing on December 4, 2013 the landlord falsely claimed that he had no knowledge of the hearing on this file, scheduled for December 6, 2013. The tenant wrote that he therefore had no reason to

believe that the landlord would attend the December 6, 2013 hearing, and he was tricked by the landlord.

Analysis on Review

The additional evidence that the tenant submitted in his review application is not new and could have been submitted as evidence in the original hearing. Alternately, the tenant could have attended the hearing and requested an adjournment to obtain a new copy of this letter, but he did not attend. I therefore find that the tenant is not entitled to a review on the ground of new and relevant evidence.

In regard to the claim of fraud, I find that the tenant's submission in this application for review consideration merely consists of a claim of fraud by the landlord in another dispute resolution proceeding. The tenant cannot obtain a review of one decision based on alleged fraud in another hearing on a different date. I therefore do not accept the tenant's claim that the arbitrator's decision was obtained by fraud.

Decision

I dismiss the application for review and confirm the original decision of December 9, 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 17, 2013