



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MND MNSD

Introduction

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.

The applicants have applied on the grounds that they have new and relevant evidence that was not available at the time of the hearing. The applicants have stated on their application that they now have estimates and invoices to reflect the costs to repair and clean the unit and yard. The applicants initiated the process on September 16, 2013. The hearing occurred two months later. I find this to be a reasonable time frame to allow the landlords to have this information ready at the hearing. In addition, the applicant stated that they have the receipts from some of the costs yet many of them are dated in September and well before the hearing date. The landlords did not explain in their application why these documents were not available at the time of the hearing. Based on the insufficient evidence before me I dismiss this portion of the landlords' application.

The applicants have also applied on the grounds that a party has evidence that the director's decision or order was obtained by fraud. When asked to describe or list the fraudulent evidence, the applicant stated that the tenants "made up stories". The landlords participated in the hearing and were given full opportunity to question and challenge any of the evidence submitted by the tenants. The Arbitrator made a finding that the tenants' evidence was credible. Based on the insufficient evidence before me I dismiss this portion of their application.

The decision and order made on November 14, 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: December 12, 2013