



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Review Consideration Decision

Dispute Codes: FF MND MNDC MNR MNSD

Introduction

On November 27, 2013 a dispute resolution hearing was conducted to resolve a dispute between these two parties. The Landlord had applied for a monetary order for unpaid rent or utilities, for money owed or compensation for damage or loss, for damage to the unit, site or property, to keep all or part of the security deposit and recovery of the filing fee. The Landlord attended the hearing and gave undisputed testimony. The Tenant did not attend. The Landlord's Application was granted. The Tenant is has applied for a review of this decision.

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.

Issues

Was the Tenant unable to attend the original hearing due to circumstances that could not be anticipated and were beyond their control?

Does the Tenant have new and relevant evidence that was not available at the time of the original hearing?

Does the Tenant have evidence that the decision or order was obtained by fraud?

Facts and Analysis

The application contains information under Reasons Number 1, 2 and 3.

The applicant states that, "I was not aware of a hearing. This lady has a habit of showing up at work to give me various letters. Apparently my roommate informed me that she came to the house and brought a bag or box. He did not know what it was and brought it back for some reason. I thought that perhaps finally she had decided to be civil and was returning something I had left at her house. Now I am thinking it had something to do with this."

I find on reason #1 that it cannot be said that the Tenant was not properly served. It is noted in the original decision by the Arbitrator that the notice of hearing package was served by both Canada Post Registered Mail and in person. This is confirmed by the Tenant's details in the Application for Review. The Tenant has failed to provide any evidence that he was unable to attend due to circumstances that could not be anticipated or were beyond her control. I find that the Tenant was properly served and chose not to participate. This portion of the Tenant's Application is dismissed.

The Tenant states under new and relevant evidence that, "I have enclosed emails this woman sent me which show that she has not been entirely truthful. She requested that I leave early and I ended up leaving 2 weeks early because she kept showing up at the house while I was gone to do various things. She made me very uncomfortable. I suspect she is trying to say I ruined her washing machine somehow. She had asked me to install a used washer she bought, so I did. Later she told me it was leaking and blamed me. She accused me of ruining it somehow."

I find on reason #2 that the Tenant has failed. The Tenant seeks to re-argue the Landlord's claim of unpaid rent or of damages and has failed to provide sufficient relevant evidence of paid rent or the state of the condition of the rental unit at the end of the tenancy that would likely cause a change in the original Arbitrators Decision. This portion of the Application is dismissed.

Under reason for fraud the Tenant states, "I believe that false information was submitted. I am guessing that she told you that her leaking washer ruined her floor and that I had let it freeze so it was ruined. The truth is that I had asked her to replace the broken washer. After a few weeks she eventually purchased a second hand washer she said worked and dropped it off at the house, expecting me to install it. It took me a couple of days to get it but I wasn't worried because the weather was mild and it was covered (I covered it). I used it a few times after that and it seemed fine. She informed me it was leaking water after I had left. I had not observed that and told her as much. If it was leaking it is because it was second hand."

I find on the 3rd reason for review that the Tenant has failed. The Tenant is arguing fraud that he "believes" that the Landlord has provided false information, but has failed

to provide sufficient relevant evidence that would likely contradict the Landlord's specific claims from the original hearing. This portion of the Tenant's claim is dismissed.

Decision

The Tenant's entire application for review is dismissed.

The decision made on November 27, 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 18, 2013

Residential Tenancy Branch