



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR OPR

### Introduction

This Application was filed by the tenants on November 25, 2013. Although the tenants did not complete their Application by indicating whether they were seeking a Review Consideration of the Decision, the Orders or both, in the interests of fairness, I will assume the tenants are seeking a Review Consideration of both the Decision and Orders dated November 25, 2013 and having received the Decision on November 20, 2013. The Decision and Orders granted the landlords an order of possession and a monetary order in the amount of \$1,340.00.

Division 2, Section 79(2) under the *Residential Tenancy Act* says a party to the dispute may apply for a review of a 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 tenants have applied on the second and third grounds. The tenants have also requested an extension of time to apply for a Review Consideration.

### Issues

- Have the tenants provided evidence that the tenants have new and relevant evidence that was not available at the time of the original hearing?
- Have the tenants provided sufficient evidence that the director's decision was obtained by fraud?

### Facts and Analysis

Section 80 of the *Act* states that an applicant **must** submit their application **within 15 days** of the date they receive the Decision or Order when the Decision or Order related to a monetary order under the *Act*. The tenants filed their Application for Review Consideration on November 25, 2013, having received the Decision on November 20, 2013. As a result, I find that the tenants submitted their Application within the timeline provided for under section 80 of the *Act*. Therefore, I do not find it necessary to consider the tenants' request for an extension of time to make an Application.

The tenants' Application for Review Consideration contains information under section C2, on why the tenants have new and relevant evidence with respect to the hearing held on November 18, 2013.

The tenants write in their Application:

"Landlor do not want to show us recette of our paid rent and din't dedoc our deposit security"

[Reproduced as written.]

The Application contains information under section C3, from the tenants alleging that the director's decision was obtained by fraud.

The tenants write in their Application:

"Again we want to SEE ALL the rent recief that we paid and we Try to pay our back rent and he won't take our money

I know we paid 600 for Sept to but they dont want to Show us reciet I know that we paid someting

Because this way we now moor them 1 month rent and didnt said nothing abouty the CockRUSH problem and didn't dedock money for ALL The petisite that we buy"

[Reproduced as written.]

The tenants submitted a receipt for their security deposit dated September 25, 2012 and a copy of the Decision and Orders in evidence.

Decision

Based on the above, the evidence and Application submitted, and on a balance of probabilities, I find the following.

In order to be successful on the second ground for review, the tenants must prove that new and relevant evidence exists that was not available at the time of the original hearing. The tenants write:

“Landlor do not want to show us recette of our paid rent and din’t dedoc our deposit security”

[Reproduced as written.]

The tenants have submitted a copy of their security deposit, however, in the original hearing the landlord did not file an application claiming towards the tenants’ security deposit. As a result, submitting a photocopy of the tenant’s security deposit receipt does not constitute new and relevant evidence as it was not relevant to the original hearing. Therefore, **I dismiss** this portion of the tenants’ Application due to insufficient evidence.

In order to be successful on the third ground for Review, the tenants must prove, based on a balance of probabilities, that the director’s decision was based on fraud. The tenants write:

“Again we want to SEE ALL the rent recief that we paid and we Try to pay our back rent and he won’t take our money

I know we paid 600 for Sept to but they dont want to Show us reciet I know that we paid someting

Because this way we now moor them 1 month rent and didnt said nothing abouty the CockRUSH problem and didn’t dedock money for ALL The petisite that we buy”

[Reproduced as written.]

For the tenants to be successful on the third ground, the tenants must provide sufficient evidence to support that the director’s decision was based on fraud. In regard to the tenants’ claim of fraud, I find that the tenants’ Application merely consists of an argument that the tenants had the opportunity to present during the hearing. The fact that the tenants disagree with the conclusion reached by the Arbitrator does not amount to fraud. The tenants have failed to provide any supporting evidence to prove that the Decision or Orders were obtained by fraud. I find that the tenants’ Application merely

consists of the tenants attempting to re-argue the matter. Therefore, **I dismiss** this portion of the tenants' Application due to insufficient evidence.

As the tenants' Application for Review Consideration has been dismissed on both grounds, the Decision and Orders made on November 18, 2013, **stand and remain in full force and effect.**

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 2, 2013