



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute codes: FF MNDC MNR OPL

Introduction

This is an application by the tenant for a review of the decision of an Arbitrator dated January 3, 2014. There were two previous Hearings one from the Tenant to cancel a Notice to End Tenancy for the Landlord's use of the property. This application was made by the Tenants and was dismissed by a different Arbitrator on October 2, 2013. The second Hearing was to hear the Landlord's application for an Order of Possession, for compensation for unpaid rent, to retain the Tenants security deposit and to recover the filing fee. The Landlord was successful and the Landlord received an Order of Possession effective 48 hours after personal service of the order and a monetary order for \$1,092.51. The Arbitrator said in his decision that the question of whether the eviction Notice was given in good faith was dealt with and dismissed in the Tenants' application heard on October 2, 2013. The Arbitrator found the Tenants were over holding and that there was unpaid rent and lost rental income owed to the Landlord. The Tenants have now made application to review the decision and Orders dated January 3, 2014. The Tenants included a written statement with their review application that says the Landlord had offered them a new tenancy with a 10% rent increase. The Tenants said they believe the Landlord evicted them because they did not agree with the rent increase and the Landlord was acting fraudulently.

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

The Tenants' application for a review of the previous Arbitrator's decision is on the grounds that the Tenants have new and relevant information. Is the Tenants' application justified?

Facts and Analysis

The Tenants have applied for a review based on new and relevant evidence. The Tenants submitted with their review application, a one page hand written statement and a copy of the decision and Orders dated January 3, 2014. There was no other corroborative evidence submitted by the Tenants with the application.

In the Tenants' written statement they said they refused to sign the new tenancy agreement the Landlord presented to them because of a 10% rent increase. The Tenants further indicted in their review consideration application that as a result of this the Landlord "faked reasons to force us to leave" by issuing a 2 Month Notice to End Tenancy for Landlord's Use of the Property.

As the Tenants have not provided any corroborative evidence to support their claims; I find the written statement of the Tenants' opinions of what happened does not meet the burden of proofing the Landlord was fraudulent in his dealings with the Tenants. The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

Further the Tenants have not provided any new or relevant evidence that was not available at the time of the original hearing. In fact the Tenants have not provided any new evidence. The Tenants review consideration application is based on their written statement alone which I find is not new or relevant evidence.

As a result, I find the tenants have not established grounds for a review hearing. Consequently, I dismiss the Tenants' review consideration application without leave to reapply due to lack of evidence. The decision dated January 3, 2014 and the Orders dated January 3, 2014 stand in full effect.

Decision

In considering the evidence on the Tenants' review application, I find that the Tenants have not established grounds to be granted a review hearing. Consequently I dismiss the Tenants' application for a Review Hearing. The decision and Orders stand in effect as stated in the original decision of January 3, 2014.

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: January 29, 2014