



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## Review Consideration Decision

Dispute Codes: FF MNSD

### Introduction

This is an application by the landlord for a review of the decision of Arbitrator dated December 3, 2013. In the original hearing Arbitrator heard an application by the tenant for the return of the security deposit and recovery of the filing fee. After hearing affirmed testimony from both parties and reviewing the written evidence Arbitrator found for the tenant and pursuant to sections 38 and 72 of the Act award double the security deposit, accrued interest and the filing fee to the tenant in the amount of \$1,451.75.

The landlord has now made an application for a review consideration of the decision and order. The landlord submitted in his application for review consideration, a copy of the decision, a copy of the move in condition report and a copy of the tenant's original application. As well the landlord made reference to photographs that were take of the rental unit on December 12, 2013, but he did not submit any photographs with the application. Further the landlord indicated in his review consideration application that the owner was unsure if he had submitted those documents for the original hearing.

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 landlord's application for a review of the previous Arbitrator's decisions is on the grounds that the landlord has new and relevant information not available at the time of the hearing. Is the landlords' application justified?

### Facts and Analysis

The landlords' application for review is requested on the basis of new and relevant evidence not available at the time of the original hearing. The landlord says the new and relevant information is a copy of the move in condition inspection report, which shows the condition of the unit on move in. The landlord said the owner had lost the report prior to the original hearing and when it was found the landlord believes it will show the condition of the unit on move in. The landlord has requested a review hearing based on this evidence.

Whether the move in condition report was lost or just not presented at the hearing it was completed prior to the hearing date and therefore it is not evidence that that came to light after the hearing it is just evidence that was not presented at the hearing. This does not make the condition inspection report new and relevant evidence. As well if a landlord does not complete both a move in and move out condition inspection report the landlord's claim against the tenant's security deposit is extinguished. Clearly the move out inspection report was not completed and signed by both the landlord and the tenant. Consequently the landlord does not have right to retain the tenants security deposit. I find the evidence submitted by the landlord for the review consideration application is not new or relevant evidence therefore I dismiss the landlord's application without leave to reapply.

I find the landlord has not established grounds for a review hearing.

Decision

The landlord has not established grounds for a Review Hearing. I find the landlord's application for a review consideration is dismissed without leave to reapply as the evidence submitted is not new or relevant evidence that was not available at the time of the hearing.

The decision and Order dated December 3, 2013 stands in full effect.

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

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Residential Tenancy Branch