



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Review Consideration Decision

Dispute Codes: FF MSND

Introduction

This is an application by the landlord for a review of a decision and order of the director dated December 10, 2013.

The landlord applied for a review on the grounds that they have new and relevant evidence that was not available at the time of the original hearing; and they have evidence that the director's decision or order was obtained by fraud.

Issues

Has the landlord provided sufficient evidence to support one of the indicated grounds for review?

Facts and Analysis

Original Hearing and Decision

The original hearing was convened pursuant to monetary applications by both the tenant and the landlord. In the decision dated December 10, 2013, the arbitrator considered all of the testimony and other evidence of the landlord and tenant and found that the tenant was entitled to most of their claim, based on the evidence, but the landlord had failed to provide sufficient evidence to support most of their claim. The arbitrator granted the tenant a monetary order for \$1840.

Landlord's Submissions

In the application for review, the landlord stated that the new and relevant evidence was four emails and four photographs that the tenant submitted as evidence in the hearing. The landlord indicated that he did not re-submit the emails and photos as his own evidence, and it appeared the arbitrator therefore did not consider this evidence when determining the landlord's claim.

In regard to the allegation of fraud, the landlord submitted that the tenant committed fraud by trying to deceive the landlord. The landlord submitted that in emails the tenant first agreed with some of the landlord's claim, but after the statutory deadline for applying for or returning the deposit had passed the tenant denied all of the landlord's claims.

Analysis on Review

The additional evidence that the landlord submitted in his review application is not new as it was submitted as evidence in the original hearing. The landlord is merely attempting to re-argue issues raised in the original hearing. I therefore find that the landlord is not entitled to a review on the ground of new and relevant evidence.

In regard to the claim of fraud, I find that the landlord's submissions in this application for review consideration merely consist of arguments that the landlord had the opportunity to present during the hearing. It is clear from the decision dated December 10, 2013 that both the landlord and the tenant provided their evidence, and the arbitrator preferred the evidence of the tenant over that of the landlord. The fact that the landlord disagrees with the conclusion reached by the arbitrator does not amount to fraud. I therefore do not accept the landlord's claim that the arbitrator's decision was obtained by fraud.

Decision

I dismiss the application for review and confirm the original decision and order of December 10, 2013.

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 2, 2014

Residential Tenancy Branch