



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW CONSIDERATION DECISION**

Dispute Codes: CNR FF MNDC MNR MT O RR

### Introduction

The Tenant applies for review of the decision on the basis of new and relevant evidence and on the basis of fraud.

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

Is the Tenant entitled to a review hearing?

### Facts and Analysis

Under new evidence, the Tenant provided a copy of an email dated September 5, 2013 that notifies the Landlord of a leak. Under fraud, the Tenant submits that the Landlord kept a rent cheque for January 2013. The Tenant submits that the Landlord agreed to reduce rent for items purchased. The Tenant states that the Landlord lied about being informed of a pipe leak and that the Landlord lied "about the fence being fixed".

Section 81 of the Act provides that an application for review may be dismissed where, inter alia, the application does not disclose sufficient evidence of a ground for the review or discloses no basis on which, even if the submissions in the application were accepted, the decision should be set aside or varied.

As this email notifying the landlord of a leak was available at the time of the hearing, I find that the Tenant has not shown sufficient evidence as a ground for review on the basis of new and relevant evidence that was not available at the time of the hearing.

The keeping of a rent cheque for January 2013 is not evidence in relation to any of the evidence and findings contained on the Decision but appears to be evidence of a new dispute. I find therefore that this evidence does not provide evidence of fraud in relation to the Decision.

Evidence of an agreement to make deductions to the rent was not evidence provided by either Party for the Hearing. As such, this evidence does not provide evidence of fraud by the Landlord.

Although the email mentioned above indicates that the Landlord did not answer truthfully about being informed of a pipe leak, even if the Landlord was informed, this evidence would not change the outcome of the decision as the Decision indicates that the Tenant's claim for damages arising from the leak was dismissed on the basis of no evidence to support the loss of items claimed. It is noted that the Decision finds that the Landlord did not fix the fence and therefore the Tenant's submission that the Landlord lied about its repair has no effect on the outcome and discloses no basis to set aside the Decision.

As the Tenant has not substantiated sufficient reason to set aside the Decision, I find that the Tenant is not entitled to a review hearing and I dismiss this application.

### Decision

The Tenant is not entitled to a review and the Decision made on December 17, 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: January 15, 2014

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Residential Tenancy Branch