



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNSD

Introduction

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.

The applicant has applied on the grounds that they have new and relevant evidence that was not available at the time of the hearing. The applicant stated that letters obtained through the strata were not available until January 2014. The landlord initiated the dispute resolution proceedings on May 31, 2013. The final hearing date was not until December 23, 2013. The landlord did not explain **why** this information was not available. Based on the insufficient evidence before me I must dismiss this portion of the landlords' application.

The applicants have also applied on the grounds that a party has evidence that the director's decision or order was obtained by fraud. When asked to describe or list the fraudulent evidence, the applicant referred to the testimony of the tenant and stated the tenant wasn't being truthful. The applicant submitted in point form the portions of the tenants' testimony that she wish to challenge. The applicant was present and was given full opportunity to challenge any and all evidence during the hearing. The Arbitrator made a finding based on the testimony and evidence submitted by both parties. The review process is a very focused and limited application and is not to be used to reargue the facts of the case. Based on the insufficient evidence submitted, I must dismiss this portion of the landlords' application.

For the above reasons I dismiss the application for leave for review. The original decision and order dated December 23, 2013 is confirmed.

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 20, 2014

Residential Tenancy Branch