



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNDC MNR MNSD O

Introduction

The original dispute resolution hearing on the application of the landlord was held on December 9, 2013, and a decision was issued on December 9, 2013, dismissing the landlord's application for loss of revenue and further granting the tenant a monetary order in the amount of her security deposit of \$1900.

This is a request by the landlord for a review consideration of that original decision.

The landlord applied for a review consideration on the ground that he has new and relevant evidence that was not available at the time of the original hearing.

Issue

Has the applicant for review provided sufficient evidence to support the indicated ground for review?

Facts and Analysis

Evidence that the applicant has new and relevant evidence that was not available at the time of the original hearing-

In his application for review consideration, the landlord provided a 9 page written statement, quoting sections of Residential Tenancy Branch Policy Guideline and from a landlord/tenant guidebook with arguments pointing out disagreements and interpretation of the original Arbitrator. Further documents supplied by the applicant were copies of certain sections of the Residential Tenancy Branch Policy Guideline, a copy of an interact transfer of funds from respondent JW, dated August 23, 2013, a copy of a phone log from the landlord's account, with phone calls from February 12, 2013 through March 5, 2013, a Fortis bill dated April 9, 2013, a redacted phone log, an email from

tenant KW, dated August 24, 2013, giving notice of their intent to vacate, and another email from KW, dated October 19, 2013.

The applicant explained that he did not provide the above referenced documents, all of which pre-dated the hearing, due to his unawareness that a lack of a signature on a tenancy agreement was relevant.

The applicant further submitted that he did not provide the documentary evidence because he “had mitigated adequately” for his loss of revenue claim. The applicant submitted that the evidence will show mitigation.

And lastly, the applicant disagreed with the original Arbitrator’s reasoning that an increased amount of rent may have been a factor in not being able to re-rent the rental unit, further submitting that disagreeing with an Arbitrator “in a hearing is not the thing to do.”

In his application for review consideration, the applicant argues that respondent JW was in fact a tenant, in opposition to the original Arbitrator’s finding that JW was an occupant and not a tenant. The applicant further made several points as to why he disagreed with the original Arbitrator’s finding that JW was an occupant.

In explanation as to why the applicant disagreed with the original Arbitrator’s that he did not properly mitigate his loss, the applicant explained his position and his disagreement with the original Arbitrator’s decision and findings, quoting from the guidebook for landlords/tenants.

Analysis on Review

Pursuant to Residential Tenancy Branch Policy Guideline 24, new evidence includes evidence that has come into existence since the dispute resolution hearing or evidence which the applicant could not have discovered with due diligence before the hearing.

In the case before me, I find the landlord’s evidence, all predating the hearing of December 9, 2013, was available in advance of the hearing, whether or not the applicant knew that the evidence would be relevant until after the hearing.

I find the submissions of the applicant shows that the applicant disagreed with the Decision and was attempting to re-argue the case.

I therefore find the applicant/landlord has submitted insufficient evidence to support that he has new and relevant evidence that was not available at the time of the original hearing.

I further find, pursuant to Section 81(1)(b)(iii) of the Act, the landlord's application discloses no basis on which, even if the submissions in the application were accepted, the decision or order of the director should be set aside or varied.

Decision

Due to the above, I dismiss the landlord's application for review consideration and confirm the original decision of December 9, 2013, dismissing the landlord's monetary claim for loss of revenue and granting the tenant a monetary order of \$1900.

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 02, 2014

Residential Tenancy Branch