



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW CONSIDERATION DECISION**

Dispute Codes: MNR OPR

### Introduction

This dispute resolution process originated upon the landlord's application for a direct request proceeding, which was conducted on November 29, 2013, for an order of possession for the rental unit due to unpaid rent and a monetary order for unpaid rent. An application under the direct request process does not allow a hearing and proceeds only upon the written submissions of the landlord.

The original Arbitrator had questions surrounding the written tenancy agreement entered into evidence by the landlord, and therefore ordered the matter be set for a participatory hearing on January 9, 2014.

At the participatory hearing, the landlord and the male tenant appeared and both parties provided testimony.

The hearing resulted in a Decision of January 9, 2014, granting the landlord's application, and granting to the landlord an order of possession for the rental unit due to unpaid rent and a monetary order for unpaid rent in the amount of \$4350.

The decision of January 9, 2014, also mentioned that the male tenant consented to allow the landlord's original application be amended to include a request for compensation for unpaid rent for December 2013 and January 2014.

This is a request by the tenant for a review consideration of that original decision on the ground that he has new and relevant evidence that was not available at the time of the original hearing, pursuant to Section 79(2) under the *Residential Tenancy Act*

### Issue

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

## Facts and Analysis

In his application for review consideration, the tenant contended that the original Arbitrator at the participatory hearing prevented the tenant from explaining why he did not pay rent or why he did not dispute the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice").

The tenant went on to submit that had he been allowed to testify, he would have explained that the landlord allegedly refused acceptance of the rent payments. The tenant further submitted that when the landlord served the order of possession for the rental unit upon the tenants, the landlord informed them the rental unit was committed for January 16, 2014, and therefore the landlord was not entitled to a full month's rent from the tenants.

There was no documentary evidence submitted by the tenant, as required by the application for review consideration itself.

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, the tenant submitted no evidence and submitted statements he allegedly was prevented from stating at the dispute resolution hearing.

I therefore find the applicant/tenant has submitted insufficient evidence to support that he has new and relevant evidence that was not available at the time of the hearing. I am not convinced that the tenant was prevented from testifying at the hearing and I find the tenant merely argued what should have been submitted at 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 also find the allegation as to whether or not the landlord obtained new tenants for one half of January 2014 to be an irrelevant issue for an application for review consideration.

I further find, pursuant to Section 81(1)(b)(iii) of the Act, the tenant'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 tenant's application for review consideration and confirm the original decision and orders of January 9, 2014, granting the landlord a monetary order of \$4350 and an order of possession for the rental unit.

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 21, 2014

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Residential Tenancy Branch