



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding York House Holdings Ltd.
and [tenant name suppressed to protect privacy]

REVIEW CONSIDERATION DECISION

Dispute codes: FF MNDC O OLC RP RR

This is an application filed by the tenant for review of the December 24, 2013 decision of an arbitrator. The applicant applied for review on the ground that she has new and relevant evidence that was not available at the time of the original hearing and on the ground that she has evidence that the decision was obtained by fraud. With respect to the ground that she has new and relevant evidence, the tenant said that she had a letter from the management to the tenants of an adjoining unit. The letter was dated October 16, 2012. In the letter the landlord commented as to the effectiveness of certain bedbug treatments. The tenant did not say why the evidence was not available at the time of the original hearing.

With respect to the ground that the decision was obtained by fraud, the tenant said that:

In his decision the arbitrator writes: "The landlord states that in 2012 unit # 508 was treated and that adjoining units were inspected, but that there were no reports of infestation"

In my evidence package I have a letter from the tenant of 508 who confirms that no inspections for bedbugs were ever done until September of 2013 when chemical treatment was done"

The tenant said that the evidence showed that there was no bedbug treatment in 2012; she submitted that this was false evidence that supported the incorrect conclusion that suites adjoining the rental unit were inspected and chemically treated.

The tenant also attached a letter of complaint to her application for review consideration. In the letter the tenant complained about how the hearing was conducted. She said the arbitrator should have excluded some evidence that was submitted late and she complained that she was not afforded a fair hearing because the hearing was rushed. The tenant said that the arbitrator frequently interrupted and did not properly understand the facts and evidence. She said that some of the facts

recorded in the decision never occurred. The letter was in part an effort to re-argue matters that were the subject of the original hearing.

With respect to the first ground for review, namely: that the tenant has new and relevant evidence that was not available at the time of the original hearing, the letter submitted by the tenant as new evidence is a photocopy of a handwritten document. It is undated, but refers to events that occurred in September 2013 and in September and October 2012; it is evidence that could have been provided before the original hearing and it is therefore not new and relevant evidence that was not available at the time of the original hearing. The tenant's application for review consideration is denied on this ground.

The Residential Tenancy Policy Guideline #24 concerning Review applications contains the following passage:

The application for the review consideration must be accompanied by sufficient evidence to show that false evidence on a material matter was provided to the RTB, and that this evidence was a significant factor in the making of the decision. The application package must show the newly discovered and material facts were not known to the applicant at the time of the hearing, and were not before the RTB. The application package must contain sufficient information for the person conducting the review to reasonably conclude that the new evidence, standing alone and unexplained, supports the allegation that the decision or order was obtained by fraud.

A review may be granted if the person applying for the review provides evidence meeting **all three** of the following tests:

1. information presented at the original hearing was false;
2. the person submitting the information knew that it was false; and,
3. the false information was used to get the outcome desired by the person who submitted it.

The tenant has not alleged any newly discovered and material facts. The facts she related in the documents submitted on the review were known to the applicant at the time of the original hearing. The tenant's review application is an attempt to reargue matters that were before the arbitrator at the original hearing. The review application is primarily an assertion that she was not afforded a fair hearing and as well, she questioned the adequacy of the decision-making process and of the reasons provided to justify the decision. . While the claim that the applicant was denied a fair hearing or a claim that the reasons provided were inadequate may provide grounds for an application to the Supreme Court of B.C. for judicial review, it does not constitute a valid ground for review pursuant to my statutory authority under section 79 of the *Residential Tenancy Act*. On the information provided by the tenant I am unable to conclude that

the decision was obtained by fraud. The tenant's application for review on the ground that the DRO's decision was obtained by fraud is denied.

For the above reasons I dismiss the application for review. The original decision dated December 24, 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 06, 2014

Residential Tenancy Branch