



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: MNR OPR

Introduction

This application was filed by the tenants, requesting a review consideration of the Decision made on January 24, 2014.

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 tenant has applied based on ground 3 for review consideration.

Issues

Do the tenants have evidence the director's decision or order was obtained by fraud?

Facts and Analysis

The tenants write in their application that the information the landlord submitted for the initial hearing was false because,

“was in discussion for amount of rent to be paid already paid 400, owed money for fixing stove cleaning sanitizing, odour control”

[Reproduced as written]

The tenants further write in their application the person who submitted the information knew it was false,

“not provided with correct documents no end tenancy document not provided w direct request proceeding”

[Reproduced as written]

The tenants further write how that the false information was used to get the desired outcome,

“ in desicussion about rent, basement flooded with fececs, had to get carpet cleaning pipes re fixed cleaned sanitized had to pay out of my pocket was in discussion about rent payment when served w notice.”

[Reproduced as written]

In this case, the tenants argued that the testimony of the landlord was fraudulent. However, the tenants have not provided evidence that the decision was obtained by fraud.

In this case, the tenants alleged they were not provided with the correct documents, they do not provide what those documents are. The tenants claim they were not provided with the notice of direct request or the notice to end tenancy, however, I note late they wrote “was in discussion about rent payment when served w notice.”

The tenant alleged that they had paid a portion of rent in the amount of \$400.00, as they were owed money for fixing the stove and other items.

However, there was no evidence that they actually paid rent, such as a receipt or a cancelled cheque. Under section 26 of the Act, a tenant must pay rent when due under the tenancy agreement, whether or not the landlord complies with the Act. A tenant cannot withhold rent or make deductions from their tenant simply because they feel justified. Rent must be paid in full unless they have the right under the Act, such as an order from an Arbitrator.

Based on the above, I find the tenants have failed to prove the decision and orders were based on fraud.

Decision

Based on the above, the application and on a balance of probabilities, I find the tenants' application for review consideration must be dismissed.

Therefore, I find the Decision and orders made on January 24, 2014, stand and remain in full force and effect. The tenants' application for review is dismissed.

This decision is final and binding on the parties, except as otherwise provided by the Act and 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 31, 2014

Residential Tenancy Branch