



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: CNC FF OLC

Introduction

A Hearing was held on November 13, 2013 to deal with the Tenant's application to cancel a Notice to End Tenancy for Cause and for an Order that the Landlords comply with the Act, regulation or tenancy agreement.

The Tenant filed an Application for Review Consideration indicating that he received a copy of the Order "issued January 31, 2014" on February 5, 2014. He indicated that he received it by "bailiff".

Section 79(2) under the *Residential Tenancy Act* provides that a party to a 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 filed this Application for Review on the first and third grounds.

Issues

1. Has the Tenant shown that he was unable to attend the Hearing due to circumstances beyond his control that were not anticipated?
2. Has the Tenant provided evidence that the arbitrator's Decision or Order was obtained by fraud?

Background and Evidence

The Tenant submits that he did not attend the Hearing on November 13, 2013, because he “was unaware of the eviction notice that had been post on the doors”.

The Tenant also submits that the “Landlord evicted us, by give false information to the courts got himself eviction papers, hired bailiffs, they came gave us 15 mins to get off property”.

Analysis and Findings

I have considered the Tenant’s submissions and provide the following findings with respect to each of the grounds for review.

Unable to Attend

The Tenant was in attendance at the November 13, 2013 Hearing. Therefore, I find that the Tenant has not proven this ground for review.

Fraud

The November 13, 2013, Decision indicates that the Tenant and the Landlords came to a settlement agreement. The terms of settlement were:

1. The parties agree that the tenancy will end on **January 31, 2014 at 1:00 p.m.**
2. The landlords are granted an order of possession effective January 31, 2014 at 1:00 p.m. The landlords must serve the tenant with the order of possession.
3. The parties agree to keep any noise to a minimum to try to not disturb the other party for the remainder of the tenancy. This includes not disturbing other occupants of the building.
4. If either party feels that they are being disturbed, they will note their concerns in writing and provide those concerns in writing to the other party.
5. The parties agree that the landlords withdraw the 1 Month Notice dated September 06, 2013 as part of this mutually settled agreement.

It would appear that the Tenant may be confusing the Order of Possession issued by the arbitrator with the Writ of Possession issued by the Supreme Court of British Columbia. In any event, the Tenant agreed that the tenancy would end on January 31, 2014, at 1:00 p.m. Therefore, I find that the Tenant has not provided sufficient evidence that the Order of Possession was obtained by fraud.

Having found that the Tenant has not provided sufficient evidence or a basis to grant a review hearing this Application for Review Consideration is dismissed.

Conclusion

The Tenant's Application for Review Consideration is **dismissed**.

The Decision and Orders issued November 13, 2013 stand and remain enforceable.

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: February 18, 2014