



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Introduction

The Decision/Order under review is a decision on the Landlords' application for an Order of Possession and a Monetary Order for unpaid rent. The matter proceeded by Direct Request, which is an ex parte proceeding based on an undisputed 10 Day Notice to End Tenancy for Unpaid Rent issued February 2, 2014, for \$4,350.00 in unpaid rent.

The Tenant submits that she received the Decision on February 24, 2014.

Division 2, Section 79(2) of the *Residential Tenancy Act* provides that 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 following 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 applies for review on the third ground set out above.

Issues

Does the Tenant have evidence that the director's decision or order was obtained by fraud?

Facts and Analysis

The Tenant submitted that she was not served with the Notice to End Tenancy, or the Notice of Direct Request Proceeding, and therefore the Decision and Order were obtained by fraud.

I do not find that the Tenant provided conclusive evidence of fraud on behalf of the Landlords. There is simply not enough information or facts to clearly establish that the

Landlords were fraudulent. However, I do find that the Decision and Orders *may* have been different if a participatory Hearing had been held and the arbitrator had the benefit of the Tenant's evidence with respect to service of documents.

Pursuant to Section 82(2) of the Residential Tenancy Act, I hereby order that the Decision and Orders rendered February 21, 2014, be suspended and that a participatory Hearing be conducted.

Notices of Hearing are included with this review consideration decision for the Tenant to serve to the Landlords, together with a copy of this decision, within 3 days of receipt of this decision.

Fact sheets are available at <http://www.rto.gov.bc.ca/content/publications/factSheets.aspx> that explain evidence and service requirements. If either party has any questions they may contact an Information Officer with the Residential Tenancy Branch at:

Lower Mainland: 604-660-1020

Victoria: 250-387-1602

Elsewhere in BC: 1-800-665-8779

Conclusion

A new Hearing is granted on the Tenant's Application for Review Consideration.

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: March 03, 2014

Residential Tenancy Branch