



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Introduction

The original dispute resolution hearing on the cross applications of the tenant and landlord was held on April 25, 2014, and a decision was issued on April 25, 2014, dismissing the tenant's application seeking cancellation of a notice to end the tenancy and granting the landlord's application. The landlord was granted an order of possession for the rental unit, effective in 2 days, and was granted a monetary award of \$450, in full satisfaction of unpaid rent of \$800 for March 2014.

This is a request by the tenant for a review consideration of that original Decision.

The tenant applied for a review consideration on the ground that she has evidence that the decision was obtained by fraud, 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

The tenant's application for review consideration indicated that she had applied for review under one ground; however, the tenant wrote information in the space on the application form reserved for two other grounds as well. From the nature of the tenant's written submissions, I find the tenant meant only to write in support of her allegation of fraud.

In support of her application, the tenant wrote that her evidence was submitted in advance of the dispute resolution hearing; however, according to the tenant, the original Arbitrator did not look at her evidence. The tenant further claimed that the landlord has a history of lying and forging documents.

The tenant further submitted that the landlord was required by another Arbitrator to pick up the rent payments from the rental unit, and that the landlord failed to do so. The

tenant submitted that due to this, she was required to mail the rent to the landlord and as a result, she had paid the rent for March 2014.

The tenant submitted that her stress levels will lead to an early death, as shown by an attached physician's statement, and that the statement attached, wrote by her daughter, confirms the landlord has not attended the rental unit.

Residential Tenancy Policy Guideline #24 provides, among other things, that the party claiming fraud must allege and prove new and material facts, or newly discovered and material facts, which were not known to the applicant at the time of the hearing, and which were not before the Arbitrator.

When claiming fraud, it is not enough to allege that the opposing party made false statements at the hearing, when the evidence as a whole was adjudicated upon by the Arbitrator.

In the case before me, it appears that the tenant has attempted to reargue the application. The tenant has not supplied new and relevant evidence in support of her claim that the decision was based upon fraud.

The tenant submitted a statement from her daughter confirming the submissions of the tenant. I also find that the physician's statement mentioning the possible reduced life expectancy due to stress to be non-relevant to the allegation that the Decision was obtained by fraud.

I therefore find the arguments of the tenant in her application for review consideration consisted of re-arguments that the tenant presented during the hearing. It is evident that the tenant has taken issue with the outcome of the hearing; however the fact that the applicant/tenant disagrees with the conclusion reached by the Arbitrator does not amount to fraud.

Therefore I find that the landlord has not presented evidence to support her application for review consideration on this ground.

As the original Arbitrator determined that the tenant failed to pay rent for March 2014, 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 order of possession for the rental unit of April 25, 2014.

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: May 07, 2014

Residential Tenancy Branch