



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Introduction

The Tenant applies for a review of the above noted Decision on the basis of inability to attend, new and relevant evidence and fraud.

The *Manufactured Home 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.

Issues

Is the Tenant entitled to a review hearing?

Facts and Analysis

The Tenant submits that a witness was unable to attend the hearing. The Tenant submits that had this witness attended evidence of a tenancy agreement would have been provided.

The Tenant submits as new evidence a copy of a business licence for the Landlord's golf course and appears to argue that at the hearing the Landlord fraudulently claimed to be operating under the Hotel Keepers Act. The Tenant indicates that the business licence was not available as it was not known that this evidence would be relevant. The Tenant does not provide any submissions on how this evidence is relevant to the dispute.

The Tenant submits as fraud that the Landlord claims to be operating under the Hotel Keepers Act and a campsite agreement. The Tenant argues that the Landlord should have known he did not have a licence to operate a hotel, that the Landlord arbitrarily decided he was not under the

Manufactured Home Tenancy Act and, that the Arbitrator refused to hear the matter based on a lack of jurisdiction. The Tenant provides further submissions on the operation of the Hotel Keepers Act and its application to the Landlord's actions and asks whether the Landlord is even allowed to be a Hotel as they only have a licence for a golf course.

Section 81 of the Act provides that an application for review may be dismissed where, inter alia, the application

- does not give full particulars of the issues submitted for review or of the evidence on which the applicant intends to rely,
- does not disclose sufficient evidence of a ground for the review, or
- 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.

As a witness is not a party to the dispute and as the Act only provides for a review if a "party" was not able to attend, I find that the Tenant has not substantiated an inability to attend the hearing. The Tenant's submissions in relation to the business licence and the Hotel Keepers Act can only be described as re-argument which is not evidence to substantiate fraud. These submissions also do not provide new evidence that was not available at the time of the hearing. Finally evidence and argument related to jurisdiction is not relevant to any of the grounds for review. I find therefore that the Tenant has not disclosed any basis for a review and I dismiss the application.

Decision

The Decision made on October 2, 2014 stands.

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: November 7, 2014

Residential Tenancy Branch