



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Introduction

The Landlord applies for a review of the above noted Decision on the basis of new and relevant evidence and on the basis of fraud.

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.

Issues

Is the Landlord entitled to a review hearing?

Facts and Analysis

The Landlord submits as new and relevant evidence that the tenancy was governed by fixed term tenancy agreements.

The Landlord submits as evidence of fraud that the photo presented for evidence at the hearing was not a photo of a back yard as claimed by the Tenant at the hearing. The Landlord submits that he thinks that the Tenant was trying to provide that another person was equally untidy.

Section 81 of the Act provides that an application for review may be dismissed where the application:

- (i) does not give full particulars of the issues submitted for review or of the evidence on which the applicant intends to rely,
- (ii) does not disclose sufficient evidence of a ground for the review,
- (iii) 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, or
- (iv) is frivolous or an abuse of process;

It is noted that the Decision being reviewed dealt with a notice to end tenancy for cause and sets out that the issue of whether the tenancy was a month to month or a fixed term was not an issue to be determined and was not an issue relevant to the reasons for the notice to end tenancy. As such the evidence provided for this review, whether it is new or not, is not relevant to the outcome of the Decision and discloses not basis upon which to set aside the Decision.

The Decision does not mention any photo and makes no reference to any issue related to cleanliness. The Decision notes that the dispute was in relation to a gate that was not locked. It is not clear from the submissions that any false information was used to get the desired outcome. As such I find that the Landlord has not provided sufficient evidence for any of the grounds for review.

Decision

The Decision made on November 28, 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: December 16, 2014

Residential Tenancy Branch