



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## REVIEW CONSIDERATION DECISION

Dispute Codes: FF MNR

### Introduction

This is an application by the tenant for a review of a decision of the director dated July 25, 2013.

The tenant applied for a review on the grounds that he was unable to attend the original hearing because of circumstances that could not be anticipated and were beyond his control; she has new and relevant evidence that was not available at the time of the original hearing; and she has evidence that the director's decision or order was obtained by fraud.

### Issues

Has the tenant provided sufficient evidence to support one of the indicated grounds for review?

### Facts and Analysis

#### *Original Hearing and Decision*

The original hearing convened pursuant to the landlord's application for monetary compensation for unpaid rent. The landlord and the male tenant participated in the teleconference hearing. In the decision dated July 25, 2013, the arbitrator found that the female tenant was not served with notice of the hearing, and the application was therefore amended to remove the female tenant as a respondent. The arbitrator provided both the landlord and the tenant the opportunity to fax documentary evidence regarding the disputed tenancy agreement. Based on all of the admissible evidence the arbitrator found that the tenant owed the landlord \$8400 in unpaid rent.

#### *Tenant's Submissions*

In the application for review, the tenant indicated that the female tenant did not attend the hearing because she was not properly served. If she had attended the hearing, she

would have provided testimony about the terms of the contract regarding monetary arrangements. The tenant also indicated that he received notice of the hearing while he was ill, and forgot about it until the day before the hearing, so he was unable to properly prepare for the hearing. The tenant indicated that the contract filed was not complete, as not all financial details were filed. If the arbitrator had seen the full contract, the amount of the monetary order would have changed considerably.

### *Analysis on Review*

The male tenant applied for a review, and the male tenant attended the hearing. Further, the male tenant was able to give testimony in the hearing and submit a copy of the disputed tenancy agreement afterward. The male tenant was given full opportunity to dispute the landlord's application. Therefore, the ground of being unable to attend the hearing does not apply to the male tenant.

The tenant did not provide evidence of his illness or request an adjournment to better prepare for the hearing. As noted above, the tenant was given the opportunity to submit his copy of the tenancy agreement. I therefore find that the landlord is not entitled to a review on the ground of new and relevant evidence.

In regard to the claim of fraud, I find that the tenant's submissions in this application for review consideration merely consist of arguments that the tenant had the opportunity to present during the hearing. It is clear from the decision dated July 25, 2013 that both the landlord and the tenant provided their evidence, and the arbitrator preferred the evidence of the tenant over that of the landlord. The fact that the tenant disagrees with the conclusion reached by the arbitrator does not amount to fraud. I therefore do not accept the tenant's claim that the arbitrator's decision was obtained by fraud.

A review hearing will only be granted where there is sufficient evidence to support one of the three grounds for review under section 79 of the Act. In this case, I find that the tenant has not provided sufficient evidence to establish that he has grounds for a review of the original decision.

### Decision

I dismiss the application for review and confirm the original decision of July 25, 2013.

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: August 12, 2013

---

Residential Tenancy Branch