



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Introduction

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.

REVIEW DECISION

The applicant has applied on the grounds that they have new and relevant evidence that was not available at the time of the hearing. The applicant has submitted photos depicting a protruding nail from the floor. The applicant stated that they had tripped over the nail and was the cause of the banging noise that the landlord was upset about. The applicant stated these photos were not available at the time of the hearing as they were unable to locate the "SD Card". The applicant has not provided sufficient evidence for the granting of a new hearing. The photos are limited in the evidentiary weight and the reason for not being available at the time of hearing is suspect. In addition, the applicant hasn't provided sufficient information as to how this would alter the original decision.

Section 81 of the Act clearly addresses the issues before me as follows:

81 (1) At any time after an application for review of a decision or order of the director is made, the director may dismiss or refuse to consider the application for one or more of the following reasons:

(a) the issue raised by the application can be dealt with by a correction, clarification or otherwise under section 78 *[correction or clarification of decisions or orders]*;

(b) 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;

The decision and order made on February 14, 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: February 27, 2014

Residential Tenancy Branch