

DECISION

Dispute Codes:

MNSD

OLC

FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a Monetary Order for the return of the security deposit under the Act, Regulation or tenancy agreement and an Order to compel the landlord to comply with the Act

Both parties attended and gave affirmed testimony in turn.

Issue(s) to be Decided

At this hearing, the remaining issue to be determined, based on the evidence was:

- Whether or not the tenant is entitled to the Return of the security deposit.
- Whether the tenant is entitled to a rent abatement for conditions that devalued the tenancy.
- Whether the landlord was in breach of the Act by imposing charges on the tenant and demanding payment outside of the sanctions of the Act and neglecting to follow due process by first obtaining a valid Order to claim payment.

Background and Evidence

The Tenant submitted into evidence a copy of an invoice from the landlord dated February 29, 2008 indicating that the tenant owed \$2,245.42 including \$805.00 rent for March 2008, "Move-out Charges" of \$75.00 for carpets, \$275.00 for drapes, \$90.00 for

cleaning, \$300.00 for additional cleaning, \$160.00 for doors, \$25.00 for mailbox lock, \$7.50 for suite keys, \$30.00 for entry keys, \$100.00 for trash removal and \$1,189.00 for carpet replacement for a total amount of \$2,245.42

The tenant testified that the landlord had never made an application for dispute resolution seeking compensation for the claimed costs and had not provided evidence to prove that the charges were valid. The tenant stated that the landlord did not follow the legislated process to obtain a valid monetary order before trying to enforce compensation for the alleged costs. The landlord had merely issued an invoice and then evidently sent the matter to collection. The tenant testified that after the landlord had contracted the third-party collection agency to collect the alleged debt, this agency then sent collection letters to the tenant and contacted the tenant by telephone trying to enforce payment.

The landlord acknowledged that no application for dispute resolution had ever been made in regards to the alleged damages arising out of the tenancy relationship. The landlord stated that the account had been handled by a property manager who was no longer employed with this landlord.

It was agreed by all that, because the monetary claim was not assessed in compliance with the Residential Tenancy Act and due process was not followed, the issue must be either be corrected by the parties or otherwise brought under the Act to resolve.

A mediated discussion ensued and the parties reached a tentative agreement in which the landlord will send a letter to the collection agency advising it that the purported debt incurred by the tenant is no longer being pursued for collection. The tenant was in agreement with this process and in exchange agreed to abandon his claim for return of the security deposit.

The landlord committed to faxing confirmation of the letter that is being sent to the collection agency to the Dispute Resolution file and also to the tenant.

Conclusion

Accordingly, having received written confirmation of the landlord's instruction to the collection agency advising it that enforcement of the invoice is no longer being sought, I hereby dismiss the tenant's application as the matter under dispute has been resolved to the tenant's satisfaction, pursuant to the mutual agreement reached between the parties.

I find that the tenant is entitled to be reimbursed the \$50.00 cost of this application and hereby issue a monetary order against the landlord in that amount. This order must be served on the landlord and may be enforced through Small Claims Court if necessary

June 2009

Date of Decision

Dispute Resolution Officer