



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes:

O, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application indicating that the tenant has suffered a loss of quiet enjoyment and for a monetary Order to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral evidence and to make submissions to me.

Preliminary Matter

The tenant's application for dispute resolution did not include application for a monetary Order related to the claim of loss of quiet enjoyment. The landlord acknowledged that he did receive the tenant's evidence which included a breakdown of the tenant's monetary claim being made. I have determined that the tenant's failure to include a request for a monetary Order and the amount of any monetary claim within the application fails to provide the respondent with adequate notice of the claim being made by the application. In order to ensure a fair and just process the respondent has a right to be served an application which leaves no doubt as to the claim being made by the applicant. In this case the parties agreed to settle the tenant's claim; therefore my initial determination that this application be dismissed with leave to reapply was unnecessary.

Background and Evidence

During this hearing the parties agreed that the tenant was entitled to compensation related to her claim of loss of quiet enjoyment during this one month tenancy which commenced May 1, 2009. The landlord and tenant both agreed that the tenant will be provided with \$550.00 compensation by the landlord who will mail the tenant a cheque tomorrow. The tenant provided the landlord with her correct mailing address, which was included as an attachment to the tenant's application.

Analysis

The parties have agreed to settle the tenant's claim which resulted in the landlord accepting compensation in the sum of \$550.00 to the tenant. The landlord has agreed to supply the tenant with a cheque in that amount which is to be mailed to her current postal box address tomorrow. In the event the landlord fails to provide the tenant with a cheque I have issued the tenant a monetary Order which may be enforced through small claims Court.

Conclusion

As allowed under section 63 of the Act, the parties have agreed to settle this claim made by the tenant. The landlord will provide the tenant with a cheque in the sum of \$550.00. The tenant has accepted this settlement and I find that the tenant may make no further claim against the landlord related to a loss of quiet enjoyment during this tenancy.

In the event the landlord fails to mail the tenant a cheque, as agreed to during this hearing, I have issued a monetary Order to the tenant in the sum of \$550.00. This Order may be enforced in small claims Court.

As the tenant failed to include a request for a monetary Order within her application for dispute resolution and in recognition of the landlord's willingness to negotiate a settlement, I find that the tenant is not entitled to filing fee costs.

Dated July 07, 2009.

Dispute Resolution Officer