

Interim Decision

Dispute Codes:

MND, MNR, MNSD, MNDC, FF

Introduction

This is the Landlords' application for a Monetary Order for unpaid rent or utilities, damage to the rental unit and compensation for damage or loss under the Act; to apply the security deposit towards satisfaction of their monetary award; and to recover the cost of the filing fee from the Tenant.

Both parties were present at the Hearing and gave affirmed testimony.

Preliminary Matters

At the onset of the Hearing, the Landlords requested a summons to compel the Tenant to provide the following documentary evidence:

- A copy of the Tenant's application for tenancy with her current landlord;
- A copy of the cheque provided to the Tenant's current landlord for payment of the security deposit;
- A copy of the Tenant's bank records showing when the aforementioned cheque cleared the Tenant's account; and
- A copy of the Tenant's cheque or credit card statement, indicating the name of the company she hired in October, 2009, to have the carpets cleaned at the rental unit.

The Landlords testified that they require these documents in order to prove their claim, and more particularly to prove: the date on which the Tenant entered into a tenancy agreement with her new landlord; and whether or not the carpets in the rental unit had been cleaned prior to the Tenant vacating the rental unit.

The Tenant testified that she did not fill out an application for tenancy with her current landlord. The Tenant stated that she had provided a copy of the tenancy agreement between the Tenant and her new landlord, which was signed on October 20, 2010. The Tenant stated that this should be sufficient proof of the date she entered into her new tenancy.

The Landlords' agent submitted that the date a tenancy agreement is signed is not necessarily the date the tenancy is created.

Analysis and Conclusion

I accept the Tenant's verbal testimony that she did not fill out an application for tenancy with her current landlord. In any event, an application for tenancy in and of itself does not determine the date a tenancy agreement is entered into. For these reasons, the Landlords' application for an order compelling the Tenant to provide a copy of an application for tenancy with her new landlord is dismissed.

The Landlords are applying for compensation arising from the Tenant's alleged breach of a settlement agreement between the parties, which included a term that the Tenant provide the Landlords "with notice in writing immediately upon securing a new location". The Landlords have asked for copies of the Tenant's bank records and cancelled cheque representing the security deposit paid to her new landlord. The Act provides that a landlord must not require a security deposit at any time other than when the landlord and tenant enter into a tenancy agreement. The Landlords require proof of when the security deposit was paid by the Tenant in order to establish the date on which the Tenant entered into her new tenancy agreement.

I order that the Tenant provide the Landlords with a copy of her cancelled cheque representing payment of the security deposit to her new landlord. The Tenant may black out the account number and transit information on the cheque. I further order that the Tenant provide the Landlords with proof of the date the cheque cleared her bank account (i.e. a copy of the front and back of the cancelled cheque with the date the

cheque was negotiated, or a copy of the Tenant's bank statement with all other deposits, withdrawals and the account/transit numbers blacked out).

I further order that the Tenant provide the Landlord with a copy of her receipt for the services of the carpet cleaners she employed immediately before vacating the rental unit.

The Tenant must serve the Landlords with copies of these documents in accordance with the service provisions of Section 88 of the Act, at least 5 clear days before the reconvened Hearing. In turn, the Landlords must provide copies to the Residential Tenancy Branch at least 3 clear days before the reconvened Hearing.

Notices of Reconvened Hearing accompany this Interim Decision.

This interim 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*.

March 16, 2010

Date of Decision