



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, FF, MNDC, MNR, MNSD

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord's application is a request for a monetary order for \$7,997.00 and a request for recovery of the \$100.00 filing fee.

The tenant's application is a request for a monetary order for \$25,000.00.

Landlords application

Background and Evidence

At the hearing the landlord stated that they are withdrawing all claims for any further rent, and are just requesting an order for bailiff fees and their costs of the dispute resolution process.

The applicant stated that:

- The tenant did not comply with an Order of Possession and Writ of Possession, and as a result they had to pay a bailiff to remove the tenant.
- The cost of the bailiff is approximately \$2000.00

Analysis

The landlord has withdrawn the claim for any further rent and therefore I need not deal with that portion of the claim.

The landlord is claiming costs for having to hire a bailiff however the landlord has failed to provide a receipt for those bailiff costs and in the absence of any evidence as to what the actual cost was, it is my decision that this portion of the claim is dismissed.

The landlord is claiming some other fees related to the dispute resolution process and the small claims process however I have no authority to award fees other than the filing fee and I dismissed the landlords claim for the filing fee, as I have not allow the landlords claim for bailiff costs.

Tenant's application

First of all it is my decision that I will not deal with the largest portion of the tenants claim, as that claim has already been filed in Small Claims Court.

Secondly I will not allow the tenants claim for moving costs, or storage fees for household belongings, because the tenant vacated pursuant to an Order of Possession and a Writ of Possession and there is no requirement for the landlord to pay moving costs or storage costs.

Therefore the only portion of the claim left to deal with is a claim for the repayment of money that the tenant alleges was unlawfully kept.

Background and Evidence

The applicant testified that:

- She was involved in a previous dispute resolution hearing involving these landlords. This hearing was held on April 3, 2012.
- Prior to receiving a copy of the Dispute Resolution Officer's decision she paid a total of \$2000.00 to the landlords in anticipation of that decision.

- When she received the decision of the Dispute Resolution Officer she found that the Dispute Resolution Officer had only ordered that she pay \$1490.00.
- She therefore requested that the landlords return the remaining \$510.00 however to date they have failed to do so.

The respondent testified that:

- He understands that there was an order for the tenant to pay \$1490.00.
- He also agrees that the tenant did pay \$2000.00.
- He is not sure what the other \$510.00 was used for, but he believes the other property manager applied it to fees from the Dispute Resolution process or Small Claims process.

Analysis

It is my finding that the landlord should have returned a \$510.00 overpayment that the tenant made.

The amount of money ordered to be paid by the dispute resolution officer was \$1490.00 and both the landlord and the tenant stated that \$2000.00 was paid.

The landlord is not even sure why the \$510.00 has not been returned or what it may have been held towards.

The landlords have provided no evidence to show that this \$510.00 should be held by the landlords.

Conclusion

Landlord's application

The landlords claim is dismissed in full without leave to reapply.

Tenant's application

I have issued an order for the landlords to pay \$510.00 to the tenant.

The tenants claim for moving costs, storage fees, and registered mail expenses are dismissed without leave to reapply.

I declined jurisdiction over the \$26,971.00 portion of the claim, as this claim is already been filed with small Claims Court.

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: July 23, 2012.

Residential Tenancy Branch