



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CREEKSIDE APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on August 28, 2013, by the Tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee from the Tenant for this application.

The parties appeared at the teleconference hearing and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Has the Tenant proven entitlement to a Monetary Order?
2. Does the matter pertaining to the Tenant's credit rating fall within the jurisdiction of the *Residential Tenancy Act*?

Background and Evidence

The Tenant testified that her tenancy began September 7, 2012 and she moved out October 22, 2012. Her rent was \$1,080.00 per month plus \$20.00 per month for parking. On September 7, 2103, she paid the Landlord \$540.00 as the security deposit.

The Tenant stated that she is seeking \$2,847.00 from the Landlord because that is the amount they have placed against her credit rating. She wants the money so she can have that amount removed from her credit rating.

The Landlord testified that they have not been issued a Monetary Order against the Tenant and that they simply hired a collection agency to go after her for the amount they feel they are owed. She stated that they did not file a claim against the Tenant because they did not have her forwarding address.

In closing, the Tenant argued that she had provided the building manager her forwarding address when she moved out.

Analysis

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*. Accordingly an applicant must prove the following when seeking such awards:

1. The other party violated the Act, regulation, or tenancy agreement;
2. The violation caused the applicant to incur damage(s) and/or loss(es) as a result of the violation;
3. The value of the loss; and
4. The party making the application did whatever was reasonable to minimize the damage or loss.

Only when the applicant has met the burden of proof for all four criteria will an award be granted for damage or loss.

In this case the Tenant has not provided evidence to prove the Landlord breached the *Residential Tenancy Act*. Therefore, I find there to be insufficient evidence to meet the test for damage or loss and I dismiss the Tenant's claim, without leave to reapply.

The Tenant's claim stems from an amount the Landlord has sent to a collection agency, which has been placed against the Tenant's credit history. Management of credit history reports does not fall within the jurisdiction of the *Residential Tenancy Act*. Accordingly, I declined to hear the matters pertaining to the Tenant's request to have her credit report cleared of this amount and I informed her to seek a remedy through the court that has jurisdiction.

Conclusion

I HEREBY DISMISS The Tenant's application, without leave to reapply.

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: December 04, 2013

Residential Tenancy Branch

