**Case Study – Withholding rent for Cancellation Fees**

**Disputed Amount:** £330

**Key Topics:** Cancellation Fees, Tenant-Finders Fee, Unfair Charges

**Case Details**

The landlord, Mrs Collins, served notice on her Agent two months before the end of the tenancy. The Agent acknowledged this notice but pointed out that a charge would be made for withdrawing from the agreement, as per the terms of their contract.

The Agent claimed that this charge was because they had found the Tenant that rented Mrs Collins’ property. As the initial introduction of the Tenant retains value, the Agent believed they would be materially disadvantaged if the tenancy was renewed under a different Agent and wished to seek compensation for this introduction.

This information was supplied to Mrs Collins via email but was only received weeks later when she checked her junk email folder. Her lack of response was taken by the Agent as tacit agreement and they proceeded by withholding this fee from the last month’s rent.

When the issue reached Mrs Collins attention, she contacted the Agent to explain that she had in fact sold the property and therefore the tenant was not remaining in the property after the expiry of the tenancy.

Mrs Collins debated this fee and made further claims that the terms of their agreement were contradictory. However, the Agent maintained they would still be applying what they saw as legitimate charges for the cancellation of the agreement. This resulted in a breakdown of communication between Mrs Collins and her Agent, with both seeking legal representation to try and resolve the issue.

**Evidence**

Copy of email and letter correspondence between the two parties, Management Agreement (part), Landlord Acknowledgement (part), Landlord Undertakings (part), Copy of a completion statement, showing the property being sold, Copy of the AST agreement.

**Head of Redress Findings**

Following a thorough review of all the evidence provided, the Head of Redress concluded that:

1. It was the intention of the Mrs Collins to terminate the arrangement following the vacation of the tenant and to sell the property. As the tenant did not remain in the property, the introduction did not retain a value and did not entitle the Agent to a fee. In addition, the agreement terminated naturally and the withdrawal fee for cancellation was not appropriate.
2. This being said, Mrs Collins had not assisted the process by clearly explaining her reasons for termination and to clarify that the tenancy would not be proceeding after the expiry of the agreement. She also confused the issue of the unfair fee by introducing the issue of contradictory clauses in the agreement. As she had willingly entered into this agreement and no objections had been made at the time this was signed, this only served to break down communication further.
3. Though this could have prevented the situation from becoming fractious, the Agent was not able to prove that they had been materially disadvantaged by Mrs Collins. As such, the Head of Redress instructed the Agent to return the withheld monies.

**Key Points from the Case**

* In order to withhold money, an Agent must be able to prove that they have been materially disadvantaged and that any losses incurred are a direct result of the Complainants actions.
* Many disputes can be resolved without the need for redress scheme involvement if both parties communicate well with one another.