

DECISION

Dispute Codes MNSD, MND, FF

Introduction

A substantial amount of documentary 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.

Issues(s) to be Decided

This is a request to retain \$240.66 of the security deposit, and the applicant is also requesting that the respondent bear the \$50.00 cost of the filing fee that was paid for the application for dispute resolution.

Background and Evidence

Issues not in dispute

The respondent stated that he does not dispute the claim for \$114.66 for carpet cleaning.

Issues in dispute

The applicant testified that:

- During the tenancy the tenant had a snake in the rental unit and he used to feed mice to that snake.
- He also believes that the tenant had his girlfriend's dog in the rental unit on occasion.
- He also believes that the tenant had two kittens in the rental unit and although he never saw the kittens he thinks he heard them one time when speaking to the tenant.

- Due to all the pets that had been in the rental unit, he decided it was prudent to treat the unit for fleas to ensure there was no infestation that would affect the new tenants.
- He never actually saw any fleas before or after the flea treatment.

The applicant is requesting that the tenants be held liable for the flea treatment due to the number of animals he allowed into the rental unit, and is also asking that the tenant bear the cost of the filing fee that was paid for this application for dispute resolution.

The respondent testified that:

- He did have a snake in the rental unit, but the mice that he fed to the snake were purchased frozen and sealed in a bag from a pet store and there were never any fleas associated with the snake or the frozen mice.
- At no time did he ever have a dog in the rental unit, his girlfriend had a dog and she had come to the rental unit with her dog however the dog was never brought into the unit they simply went for a walk with the dog and then the dog went back in the car with his girlfriend.
- There were never any kittens in the rental unit. He and his girlfriend did save two kittens however the kittens were taken to his girlfriend's place and were never in his own rental unit. There is no way the landlord could have heard kittens in his rental unit.

The respondent is therefore requesting that the landlords claim for flea treatment be dismissed.

Analysis

The claim for carpet cleaning is not in dispute and therefore I allow that portion of the claim. I will not however; allow the claim for flea treatment, because the landlord has not met the burden of proving that the tenant ever had unauthorized pets in the rental unit.

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met. In this case it is basically just the landlord's word against that of the tenants and therefore the burden of proof has not been met.

Further the landlord has never actually witnessed any pets in the rental unit and although he thinks he heard cats in the rental unit he did not actually see any.

Further there is no evidence that there was a flea infestation in the rental unit, as no fleas were seen prior to or after the flea treatment. I understand that the treatment was done as a precaution however unless the landlord can show that there was an infestation, the tenant cannot be held liable for the cost of that treatment.

I also deny the landlords claim for the filing fee, because the only portion of the claim I have allowed is the carpet cleaning, and the tenant had already given the landlord permission to deduct the cost of carpet cleaning from the security deposit.

Conclusion

The landlord may retain \$114.66 of the security deposit, and the remainder of the security deposit plus interest must be returned to the tenant.

The total security deposit plus interest held is \$274.38, and therefore the landlord must return \$159.72 to the tenant.

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 27, 2010.

Dispute Resolution Officer