



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNR, MNSD

### 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.

### Issue(s) to be Decided

This is a request to retain the full security deposit of \$287.50, plus a request for a monetary order for a further \$575.00, and a request for recovery of the \$50.00 filing fee.

### Background and Evidence

The applicants testified that:

- The tenants signed a tenancy agreement that was to start on May 1, 2011 with the fixed term of six months.
- The tenant failed to move into the rental unit and as a result they lost the full rental revenue for the month of May 2011.
- The tenant also signed an agreement to forfeit her security deposit if she failed to execute the lease agreement.

- They attempted to re-rent the unit but were unsuccessful, and the unit was not re-rented until June 15, 2011.

The respondent testified that:

- When she signed the tenancy agreement the rental agent verbally told her that she could have her dog in the rental unit.
- She was subsequently informed by the landlords that she could not have her dog in the rental unit and therefore she informed him that she would not be able to move into the rental unit.
- The landlords had plenty of time to re-rent the unit and therefore she fails to understand why they were unable to do so.
- She believes the landlord should be bound by their agents verbal agreement to allow her to have her dog in the rental unit and since they did not she believes she should be released from the agreement.

In response to the tenant's testimony the landlords further testified that:

- They spoke with their former rental agent, and the agent informed them that she did not agree to allow a dog in the rental unit, but had agreed that a dog could visit on occasion.

### Analysis

#### Security deposit

I will not allow the landlords request to retain the security deposit.

Section 20(e) of the residential tenancy act states:

**20** A landlord must not do any of the following: (e) require, or include as a term of a tenancy agreement, that the landlord automatically keeps all or part of the security deposit or the pet damage deposit at the end of the tenancy agreement.

Therefore it is my decision that the landlord's clause requiring that the tenant forfeit their security deposit is a clause that is prohibited under the Residential Tenancy Act and therefore not enforceable.

#### Lost rental revenue

First of all I accept the tenants claim that she was under the impression that her dog was going to be allowed in the rental unit. The landlords testified that their previous agent had told the tenant that a dog could stay occasionally, however in the absence of any direct evidence from the previous agent I accept that the previous agent may not have clearly stated the landlord's position with regards to pets. The tenant may therefore have been left with the false impression that her pet was going to be allowed.

Secondly, although the landlords claim that they have attempted to re-rent the unit by advertising it for rent, the landlords have provided no evidence in support of this claim.

I therefore deny the landlords claim for lost rental revenue.

#### Conclusion

The landlord's application is dismissed in full without leave to reapply and I have issued an order for the landlords to return the full security deposit of \$287.50 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: August 18, 2011.

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Residential Tenancy Branch