



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNSD

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for the return of the security deposit or pet damage deposit.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, to call witnesses, and to make relevant submissions.

Issue(s) to be Decided

The issue to be decided is whether the Tenant is entitled to the return of a pet damage deposit.

Background and Evidence

The Landlord and the Tenant agree that the Tenant with the initials "J.M." and two co-tenants entered into a tenancy agreement with this Landlord for a different rental unit; that a pet damage deposit of \$500.00 and a security deposit of \$500.00 was paid for this original tenancy; that the parties agreed to amend this original tenancy agreement by deleting the Tenant with the initials "J.M." from the tenancy agreement; and that the parties agreed to assign the original security deposit to the two co-tenants.

The Landlord and the Tenant agree that the Tenant with the initials "J.M.", the Tenant with the initials "K.M.", and the same Landlord entered into a new tenancy agreement for different rental unit, which began on December 01, 2010. The parties agree that the Tenant paid a security deposit of \$564.00 for this rental unit, which is not the subject of this dispute resolution proceeding.

The Landlord contends that the pet damage deposit from the original tenancy was never transferred to the new tenancy.

The Tenant contends that the pet damage deposit from the original tenancy was transferred to the new tenancy. The Tenant with the initials "J.M." stated that she signed a document which declared that the pet damage deposit was transferred to the new tenancy, however she submitted no evidence to corroborate this testimony. She stated

that she was told by an agent for the Landlord that the pet damage deposit was being transferred to her new tenancy, however she submitted no evidence to corroborate this testimony.

Both parties submitted a document that is signed by the Tenant with the initials "J.M." and an agent for the Landlord that declares the security deposit from the original tenancy agreement was assigned to the original two co-tenants. The Agent for the Landlord stated that there is nothing on file to show that the pet damage deposit was transferred to the new tenancy.

The Landlord contends that the pet damage deposit remained with the original tenancy and that the Landlord will comply with section 38 of the *Residential Tenancy Act (Act)* once they receive a forwarding address for the parties that remained in the original rental unit. The Tenant contends that it must be returned to them in accordance with section 38 of the *Act*.

Analysis

There is a general legal principle that places the burden of proving a claim on the person who has filed the claim. In these circumstances, the burden of proving that the pet damage deposit was transferred from a previous tenancy to the current tenancy rests with the Tenant.

I find that the Tenant has submitted insufficient evidence to establish that the pet damage deposit was transferred from the original tenancy to this rental unit. In reaching this conclusion I was heavily influenced by the absence of evidence that corroborates the Tenant's position that it was transferred to the new tenancy or that refutes the Landlord's position that it remained with the original tenancy.

Conclusion

As I have insufficient evidence to conclude that the pet damage deposit was transferred from the original tenancy agreement, I dismiss the Tenant's application for the return of the deposit.

The Landlord remains obligated to comply with section 38 of the *Act* once they receive a forwarding address from the tenant(s) who remained at the original rental unit.

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 02, 2012.

Residential Tenancy Branch