



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DCL Systemtech Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for a monetary order for return of all or part of the pet damage deposit or security deposit and to recover the filing fee from the landlord for the cost of the application.

An agent for the landlord company, a person who stated that he owned the landlord company, and the tenant attended the hearing and each gave affirmed testimony. The landlord has also provided evidentiary material to the Residential Tenancy Branch and to the tenant, however the tenant has not provided any. The parties were given the opportunity to cross examine each other on the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the tenant established a monetary claim as against the landlord for return of all or part or double the amount of the pet damage deposit or security deposit?

Background and Evidence

The tenant testified that this fixed term tenancy began on May 1, 2013 and then reverted to a month-to-month tenancy commencing November 1, 2013. The tenant moved out of the rental unit on January 31, 2014 after providing the landlord with a notice to end the tenancy which was given to the landlord's agent personally on December 31, 2013. Rent in the amount of \$850.00 per month was payable in advance on the 1st day of each month and there are no rental arrears. On April 6, 2013 the landlord collected a security deposit from the tenant in the amount of \$425.00 and a pet damage deposit was collected on May 1, 2013 in the amount of \$425.00. The landlord also collected a key fob deposit in the amount of \$50.00.

The tenant further testified that on January 20, 2014 she sent an email to the landlord's agent which contained the tenant's forwarding address. On February 15, 2014 the tenant sent another email to the landlord's agent, and the tenant received back \$854.81 on March 7, 2014.

The tenant claims double the amount of the deposits less the amount returned.

The landlord's agent testified that the facts surrounding the tenancy as testified by the tenant are true. The amount withheld by the landlord was the cost for replacing blinds that had been damaged by the tenant's cat, not the cost for installing them. The tenant knew at the time of the move-out condition inspection report that a charge would be levied for those blinds, but the amount was not known at the time. The landlord has provided a receipt showing the cost and a copy of the move-in/out condition inspection report, and testified that the page missing from the report is a cover page and contains no information.

The landlord has also provided copies of emails exchanged by the parties, but not copies of emails wherein the tenant provides a forwarding address.

The other landlord spoke to the issue that no evidence has been provided by the tenant.

Analysis

The *Residential Tenancy Act* does not permit a landlord to keep any portion of a security deposit or pet damage deposit even if there is outstanding rent or damage to the rental unit at the end of a tenancy, unless the tenant agrees in writing or the landlord has successfully applied for an order permitting the landlord to keep all or some of the deposits. A landlord must either return the deposits in full or apply for dispute resolution within 15 days of the later of the date the tenancy ends or the date the tenant provides a forwarding address in writing. If a landlord does neither, the landlord must be ordered to pay the tenant double the amount.

In this case, I am satisfied that the tenant did not agree in writing that the landlord keep any portion of either of the deposits. The parties agree that the tenancy ended on January 31, 2014, however, I am not satisfied of the date that the landlord received the tenant's forwarding address in writing. The tenant testified that an email was sent to the landlord's agent on January 20, 2014 but did not provide a copy. Further, there is no evidence before me on what date the landlord may have received that email; neither party has provided a copy of an email from the landlord acknowledging receipt. The

tenant also testified that another email was sent to the landlord on February 15, 2014, but again there is no evidence of when that was received.

In the circumstances, I cannot find that the tenant is entitled to double recovery of either deposit, but I do find that the landlord has failed to return a portion without the tenant's written consent and without an order of the director, and I order the landlord to return \$45.19. Since the tenant has been partially successful, the tenant is also entitled to recovery of the \$50.00 filing fee for the cost of the application.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$95.19.

This order is final and binding and may be enforced.

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: June 17, 2014

Residential Tenancy Branch

