



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding KANDOLA VENTURES INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR, MNSD, FF (Landlord's Application)
MNSD, MNDC, FF (Tenants' Application)

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the "Application") made by the Tenants on December 31, 2015 and by the Landlord on October 9, 2015.

The Landlord applied for a Monetary Order for unpaid rent, to keep the Tenants' security and pet damage deposits (the "Deposits"), and to recover the filing fee from the Tenants. The Tenants applied for the return of the Deposits, for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), and to recover the filing fee from the Landlord.

The agent for the company Landlord (the "Landlord") appeared for the hearing and provided affirmed testimony as well as documentary evidence in advance of the hearing. The Landlord testified that the Tenants were served with a copy of the Landlord's Application and evidence by registered mail.

The Landlord provided evidence to show that the documents were sent to the Tenants' address that was provided by the Tenants on the move-out Condition Inspection Report (the "CIR") at the end of the tenancy. Based on this undisputed evidence before me, I find the Tenants were served with the required documents for this hearing pursuant to Section 89(1) (c) of the Act.

The Landlord testified that she received the Tenants' Application. However, there was no appearance by the Tenants for the ten minute duration of this hearing despite the Tenants being provided with the same date and time for this hearing to hear both Applications together. As the Landlord was present and ready to proceed, I dismissed the Tenants' Application without leave to re-apply. The hearing continued to hear the undisputed evidence of the Landlord for her Application as follows.

Issue(s) to be Decided

Is the Landlord entitled to keep a portion of the Tenant's Deposits for damage to the rental unit and pursuant to a previous Monetary Order?

Background and Evidence

The Landlord testified that this tenancy started on March 15, 2015. A written tenancy agreement was signed for a fixed term tenancy of one year. Rent in the amount of \$1,100.00 was payable by the Tenants on the 31st of each month. The Tenants paid the Landlord a security deposit of \$550.00 and a pet damage deposit of \$550.00 at the start of the tenancy which the Landlord still retains. The Landlord completed a move-in CIR on March 14, 2015 and a move-out CIR at the end of the tenancy on September 28, 2015. The Landlord provided the CIR into evidence which details the Tenant's forwarding address.

The Landlord explained that she had applied to recover unpaid rent of \$400.00 in this Application. However, in the interim time, the Landlord had already received a Monetary Order for this amount through a previous review hearing that was conducted on December 10, 2015 (the file number for which appears on the front page of this decision). The Monetary Order for this amount is dated December 18, 2015. The Landlord testified that the Tenants had not paid this amount. As a result, the Landlord requested to use the Tenants' Deposits to offset against the Monetary Order.

In addition, the Landlord claimed \$210.00 for lack of carpet cleaning and \$40.00 for oven cleaning. The Landlord testified that the Tenant was only allowed a bird in the rental unit but also kept dogs which were not caged without her consent using the excuse that they were just visiting the rental unit. The Landlord referred to the tenancy agreement which specifically prohibited the Tenant from having dogs and cats at the rental unit. The Landlord testified that as a result she had to get the carpets cleaned. The Landlord provided an invoice for the amount being claimed which detailed the removal of the heavy pet stains and odor from the carpet. However, the Landlord failed to provide an invoice for the oven cleaning cost stating that she did not have one.

Analysis

Section 38(1) of the Act requires a tenant to provide the landlord with a forwarding address in writing before a landlord is required to make an Application to claim against the Deposits. In this case, I accept the Landlord's testimony that the Tenants provided a forwarding address on the move-out CIR on September 28, 2015 which was the date of the end of tenancy. Therefore, I find the Landlord made the Application to keep the Tenants' Deposits within the 15 day time limit stipulated by Section 38(1) of the Act.

Section 37(2) (a) of the Act requires a tenant to leave the rental suite reasonably clean and undamaged at the end of the tenancy except for reasonable wear and tear. Furthermore, Policy Guideline 1 to the Act with respect to carpet cleaning states that a tenant is responsible for shampooing the carpets at the end of a tenancy, irrespective of the length of the tenancy, if the tenant has had pets which were not caged.

I accept the oral evidence of the Landlord along with the invoice evidence that the Tenant failed to clean the carpets at the end of the tenancy and that she had pets in the rental unit that were not caged. Therefore, I award the Landlord the \$210.00 claimed for remedying the cleaning of the carpets in the rental unit. However, I deny the Landlord's claim for the oven cleaning as the Landlord failed to provide any supporting evidence to verify the amount being claimed.

Section 38(3) (b) of the Act provides that a landlord may retain from a security deposit or a pet damage deposit an amount that the director has previously ordered the tenant to pay the landlord. Therefore, as the Landlord was previously awarded a Monetary Order in the amount of \$400.00 on December 18, 2015, the Landlord may retain this amount from the Tenants' Deposits. The Landlord may also retain \$210.00 for the carpet cleaning awarded above and the \$50.00 filing fee paid to make this Application. As a result, the Landlord may retain a total amount of \$660.00 from the \$1,000.00 Deposits. The remaining balance of the Tenants' Deposits of \$440.00 must be returned back to the Tenants forthwith. The Tenants are issued with a Monetary Order for the remaining balance payable to them.

Conclusion

The Landlord may keep \$660.00 of the Tenants' \$1,100.00 Deposits. The remainder must be returned to the Tenants. This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: April 26, 2016

Residential Tenancy Branch