



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, received at the Residential Tenancy Branch on March 9, 2017 (the "Application"). The Landlord applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlord be permitted to keep all or part of the pet damage deposit or security deposit; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by S.L., an agent. The Tenant attended the hearing on her own behalf. All parties giving testimony provided a solemn affirmation.

On behalf of the Landlord, S.L. testified the Application package was served on the Tenant by registered mail, although he could not confirm the date. The Tenant acknowledged service by registered mail. I find the Application package was sufficiently served for the purposes of the *Act*, pursuant to section 71 of the *Act*.

No issues were raised with respect to service or receipt of the documents upon which the parties intended to rely. The parties were provided with the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Landlord entitled to keep all or part of the pet damage deposit or security deposit?
2. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

The Landlord submitted a copy of the tenancy agreement between the parties into evidence. It confirms the fixed-term tenancy began on March 1, 2016. The tenancy ended on February 28, 2017, at which time the Tenant vacated the rental unit. During the tenancy, rent in the amount of \$775.00 per month was due on the first day of each month. The tenancy agreement confirmed the Tenant paid a security deposit in the amount of \$387.50. Whether or not the Tenant also paid a pet damage deposit of \$387.50 was in dispute.

On behalf of the Landlord, S.L. testified that his predecessor, who filed the Application, is no longer in that role. As a result, he was not familiar with the details of this dispute. However, he testified that the Landlord was able to re-rent the unit as of April 1, 2017, and did not incur any expenses to clean or make repairs to the unit. Further, S.L. testified that the Landlord's records do not indicate the Tenant paid a pet damage deposit.

The Tenant acknowledged the security deposit was repaid to her. However, she disputed the Landlord's claim she did not pay a pet damage deposit. She testified she provided the Landlord with a pet damage deposit of \$387.50 that has not been repaid to her. The Tenant also referred to a move-out condition inspection, submitted into evidence by the Landlord, which did not indicate any concerns about damage to the unit.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

On behalf of the Landlord, S.L. confirmed the Landlord has not incurred any expenses related to the end of the tenancy, and in particular with respect to the smell of cat urine in the apartment. The Landlord did not make a claim for damage to the rental unit; the Landlord applied only to keep the pet damage deposit or security deposit. In addition, the Landlord was able to rent the unit as of April 1, 2017. Accordingly, I find there is insufficient evidence before to conclude the Landlord is entitled to the relief sought. The Landlord's Application is dismissed.

During the hearing, the parties agreed that a security deposit was repaid to the Tenant. However, the payment of a pet damage deposit is in dispute. Although the Tenant asserted she paid a pet damage deposit, the Landlord's agent disagreed. However, after careful review of the documentary evidence submitted by the parties, I find the Tenant did pay a pet damage deposit. An invoice, dated March 6, 2017, submitted with the Landlord's documentary evidence, purported to deduct the pet damage deposit from the total deposits held. The invoice appears, in part, as follows:

DESCRIPTION	AMOUNT
Damage and Pet Deposit	775.00
Less: Pet Deposit- Damage to Unit- Cat Urine	(387.50)
TOTAL	\$ 387.50

In addition, an Addendum to Lease Agreement, signed by the parties on April 1, 2016, stated:

In consideration of this exception, I agree to pay a refundable deposit of not less than one half of one months rent. This fee is considered "pet deposit" and is not part of the regular security deposit. The pet deposit can be used to satisfy the cost to fumigate the apartment and repair any damages caused by the pet.

[Reproduced as written.]

In light of the above, I find that the Landlord returned the security deposit of \$387.50 to the Tenant and retained the pet damage deposit of \$387.50 pending the outcome of this hearing. As the Landlord's Application has been dismissed, I order the Landlord to repay the pet damage deposit to the Tenant within 15 days after the date of this Decision. Failure to do so may result in the Tenant making an application for dispute resolution in accordance with section 38 of the *Act*.

Conclusion

The Landlord's Application is dismissed. The Landlord is ordered to repay the pet damage deposit to the Tenant within 15 days after the date of this Decision. Failure to do so may result in the Tenant making an application for dispute resolution, in accordance with section 38 of the *Act*.

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 9, 2017

Residential Tenancy Branch