



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding UNIQUE REAL ESTATE ACCOMMODATIONS INC.
and [tenant name suppressed to protect privacy]

DECISION

Introduction:

Both parties attended the hearing and gave sworn or affirmed testimony. Each confirmed receipt of the tenant's forwarding address in writing on June 29, 2016 and of each other's Application for Dispute Resolution. Although the female tenant did not receive a copy of the landlord's application due to a mistake in the numbers in the address, I find she had knowledge of the matter and is sufficiently served pursuant to section 71 of the Act for the purposes of this hearing. I find the other documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows: a) A monetary order pursuant to Sections 7 and 67 for damages to the property; b) An Order to retain part of the security deposit pursuant to Section 38; and c) An order to recover the filing fee pursuant to Section 72.

The tenant applies pursuant to the Act for orders as follows:

- d) For a return of twice the security deposit pursuant to section 38;
- e) To dispute the deductions of the landlord; and
- f) To recover the filing fee for this application.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that they should have compensation for cost incurred? If so, what is the amount of the compensation and is the landlord entitled to recover filing fees also?

Is the tenant entitled to twice the security deposit refunded and to recover filing fees for the application?

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced May 3, 2016 in this partly furnished unit, that rent was \$3500 a month and a security deposit of \$1750 was paid on April 14, 2016. The tenants vacated on June 29, 2016 as

provided in their lease and did a move-out report which contained their forwarding address.

The landlord claims \$84 for professional carpet cleaning of two rooms and \$63 for cleaning two sets of bed sheets and making the bed. The tenant said they cleaned the carpets but did not provide a receipt to the landlord and they washed and folded the sheets. The tenant provided an email from the agent who did the move out report noting the unit was very clean. However, the landlord noted this was deceptive and provided a full version of the email which stated the carpets appeared to be only spot cleaned. The landlord stated it was provided in the lease that the carpets were to be professionally cleaned at the end of the tenancy as they were at the beginning. A number of emails and receipts, including one for the professional cleaning of the carpets, are in evidence.

The tenant claims double their security deposit refunded as they gave no consent to retain any of it. They disagree with the cleaning charges of the landlord and argued about them at the time. The moving out agent's email confirms they disputed the charges. The landlord has returned \$1603 of their security deposit and retained \$147 for their charges as listed. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Monetary Order:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord has satisfied the onus in respect to the professional cleaning of the carpets. I find clause 22 of the lease states that if the carpets are professionally cleaned at the beginning of the tenancy, the tenant is responsible for the cost of professional cleaning at the end. I find insufficient evidence that the tenant did have them professionally cleaned. He was unable to produce a receipt to the move-out agent and she commented in her report that they appeared to be only 'spot cleaned'. I find the landlord entitled to recover the cost of carpet cleaning in the amount of \$84 as claimed.

In respect to the general cleaning of \$63, I find the move out agent stated in her email that the place had been cleaned well from top to bottom and only the beds had to be made. She also remarked that all the bed linen including the mattress cover had been washed. I find the tenants were never advised in any communications that the bed had to be made at move-out and this was not in their lease agreement. Therefore, I find the landlord not entitled to recover the charge for bed making as I find insufficient evidence that this was a tenant obligation. I dismiss this portion of the landlord's claim.

In respect to the security deposit, I find the tenant's moved out and provided their forwarding address in writing on June 29, 2016. While the landlord relied on clause 2 of the lease to withhold cleaning charges from the security deposit, I find section 20(c) of the Act provides that a landlord may not include this automatic retention of a portion of the security deposit at the end of the lease. I find the landlord is expected to comply with section 38 of the Act and make any claim against the deposit within 15 days of the later of the tenant vacating and providing their forwarding address in writing.

I find the tenant paid \$1750 security deposit. Section 38 of the Act required the landlord to return this amount within 15 days if they determined not to seek its retention through Dispute Resolution. I find the landlord did not file their Application until August 16, 2018 which is almost two years beyond the 15 day period. The amount which is *doubled* is the original amount of the deposit. As a result I find the tenant has established an entitlement claim to \$3500. From this will be deducted the amount already refunded by the landlord (\$1603) and the amount awarded to the landlord for carpet cleaning.

Conclusion:

I find the tenant entitled to a monetary order as calculated below. I find both parties entitled to recover filing fees as both had merit to their claims.

Calculation of Monetary Award:

Original security deposit	1750.00
Double deposit	1750.00
Filing fee	100.00
Less amount paid to tenant by landlord	-1603.00
Less amount for carpet cleaning	-84.00
Less filing fee to landlord	-100.00
Total Monetary Order to Tenant	1813.00

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: September 27, 2018

Residential Tenancy Branch