



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WENTWORTH PROPERTIES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF MNDCT MNSD MNDCL-S

Introduction

This hearing dealt with applications from both parties for compensation under the *Act*.

The landlord applied for:

- a Monetary Order pursuant to section 67 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

The tenant applied for:

- a Monetary Order pursuant to section 67 of the *Act*;
- a doubling of the pet and security deposit pursuant to section 38 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Both parties attended the hearing with the landlord represented by agent, E.J. (the “landlord”). All parties were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

Both parties confirmed receipt of each other’s applications for dispute resolution and evidentiary packages. Both parties are found to have been duly served in accordance with the *Act*.

Issue(s) to be Decided

Is either party entitled to a monetary award?

Can either party recover the filing fee?

Can the landlord retain the tenant's security deposit in satisfaction for his monetary award? If not, should it be returned to the tenant and doubled?

Background and Evidence

Testimony provided to the hearing by the landlord explained this tenancy began on May 1, 2017 and ended on July 31, 2018. Rent was \$890.00 per month and two deposits, one for \$445.00 (security) and a second for \$447.50 (pet) were paid by the tenant and continue to be held by the landlord.

The landlord said he was seeking to withhold \$131.88 from the tenant's security deposit because of re-keying that was required to the rental unit's door following the conclusion of the tenancy. The landlord said no condition inspection of the unit was done at the end of the tenancy, and noted the tenant had failed to return the keys. The landlord said the building manager for the property had been scheduled to meet with the tenant on July 31, 2018 at 7:00 P.M.; however, she had failed to attend this meeting as she was occupied with another rental unit. The landlord said the building manager briefly met the tenant after the agreed upon time on July 31, 2018, but because of time constraints the parties were unable to perform an inspection of the property and the building manager failed to collect the keys to the unit.

The tenant largely agreed with the version of events provided by the landlord. The tenant said she waited for the building manager until 7:25 P.M. or 7:30 P.M. on July 31, 2018 but could not wait any longer because of time constraints. The tenant acknowledged she continued to hold keys for the rental unit but stated no person had taken steps to get in touch with her to retrieve them, nor had efforts been made to perform a condition inspection of the unit at a later date.

The tenant's application for dispute concerned a monetary award of \$1,990.00. The tenant said this amount reflected a doubling of her pet and security deposit which the landlord had failed to return to her, along with expenses incurred related to cleaning services in the unit. The tenant argued she had unreasonably been expected to leave the unit clean despite extensive renovations which were undertaken by the landlord following her move-out. The tenant said she hired a professional cleaning service and sought a return of the associated funds.

The landlord disputed that there was any requirement to hire a professional cleaning service and said it could reasonably be expected that a tenant was to leave a rental unit

clean following their departure. The landlord said many items such as drapes and appliances are often re-used in other units after a move out, therefore, he expected units to be left clean despite renovations to the suite.

Analysis

I will begin by analyzing the landlord's application and then turn my attention to the tenant's application for compensation.

The landlord applied to withhold \$131.88 from the tenant's security deposit.

Section 24(2)(a) states as follows, "the right of a landlord to claim against a security deposit or a pet deposit, or both, for damage to residential property is extinguished if the landlord does not comply with section 23(3) [2 opportunities for inspection]." I find the landlord has failed to provide the tenant with two opportunities to attend a move out inspection pursuant to section 23(3) of the *Act*. The landlord acknowledged the building manager failed to attend a meeting on July 31, 2018 with the tenant at the agreed upon time and said no second meeting was arranged. For these reasons, I dismiss the landlord's application for a monetary award.

The tenant has applied for a monetary award of \$1,990.00 related to a doubling of her pet and security deposits, along with a return of \$210.00 for expenses she incurred related to cleaning. The tenant argued that the landlord unreasonably directed her to leave the unit clean, despite a large renovation that took place in the unit following her departure. Section 37(2)(a) of the *Act* states, "When a tenant vacates a rental unit, the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear." I therefore decline to award the tenant any portion of her application for a monetary award related to cleaning. I find it reasonable that a landlord would expect a tenant to leave a unit clean following the end of the tenancy, no matter what a landlord may have planned for the unit following a tenant's departure. Furthermore, section 37 of the *Act* mandates that a unit be left *reasonably clean*. The tenant was under no obligation to hire professional cleaners and therefore must bear the associated cost.

Section 38 of the *Act* requires the landlord to either return a tenant's security or pet deposit in full or file for dispute resolution for authorization to retain the deposit 15 days after the *later* of the end of a tenancy and upon receipt of the tenant's forwarding address in writing. In this case, the tenant vacated the rental unit on July 31, 2018. The landlord therefore had 15 days to apply for dispute resolution or to return the deposit. If

that does not occur, the landlord is required to pay a monetary award, pursuant to section 38(6)(b) of the *Act*, equivalent to double the value of the security or pet deposit. A review of the landlord's application for dispute shows the landlord applied to retain a portion of the tenant's pet and security deposit on August 14, 2017. I find the landlord is therefore within the 15 day time frame required by section 38 of the *Act* and decline to double the tenant's deposits. As the landlord has demonstrated no right to retain either deposit, I order the landlord to return both deposits to the tenants in their entirety.

As both parties were unsuccessful in their application, they must each bear the cost of their own filing fee.

Conclusion

The landlord's application to retain a portion of the tenant's pet or security deposit is dismissed without leave to reapply.

The landlord is ordered to return the tenant's pet and security deposits in their entirety.

The tenant's application for a monetary award is dismissed without leave to reapply.

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: December 3, 2018

Residential Tenancy Branch