



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LE GERS PROPERTIES INC DBA CHATEAU RENBRANDT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD

Introduction

On August 17, 2018, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for the Landlord to return of all of the pet damage deposit, and to recover the filing fee for the Application.

The Tenants appeared at the hearing; however, the Landlord did not. The Tenants provided affirmed testimony that they served the Landlord with the Notice of Dispute Resolution Proceeding using Canada Post Registered Mail sent on August 24, 2018. The Tenants provided the Registered Mail receipt and tracking number as proof of service.

I find that that the Notice of Dispute Resolution Proceeding was served to the Landlord in accordance with sections 89 and 90 of the Act and the Notice of Hearing is deemed to have been received by the Landlords on the fifth day after it was mailed.

The Tenants were asked if they had any questions. The Tenant provided affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and 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

- Are the Tenants entitled to the return of the pet damage deposit?
- Are the Tenants entitled to recover the cost of the filing fee?

Background and Evidence

The Tenants testified that the tenancy commenced on November 1, 2017, and ended on May 8, 2018. Rent in the amount of \$1,450.00 was due by the first day of each month. The Tenants paid the Landlord a security deposit of \$725.00 and a pet damage deposit of \$730.00. The Tenants provided a copy of the tenancy agreement. The Tenants provided a copy of a receipt dated December 21, 2017, for payment of a pet damage deposit in the amount of \$730.00.

The Tenants testified that the Landlord did not return the pet damage deposit after the Tenants moved out of the rental unit.

The Tenants testified that there was no agreement that the Landlord could retain any amount of the pet damage deposit.

The Tenants testified that the Tenants provided the Landlord with their forwarding address in writing on two occasions. The Tenant testified that their address was provided to the Landlords on May 8, 2018, and again via email on June 14, 2018. The Tenants provided documentary evidence of a condition inspection report containing the Tenant's address and a copy of an email containing the Tenant's address.

The Tenants testified that the Landlord did not apply to dispute resolution to keep the pet damage deposit. The Tenants are seeking double the amount of the deposit.

Analysis

Based on the evidence and testimony before me, and on a balance of probabilities, I find as follows:

Section 38 (1) of the Act states that within 15 days after the later of the date the tenancy ends, and the date the Landlord receives the Tenant's forwarding address in writing, the Landlord must repay any security deposit or pet damage deposit to the Tenant with interest calculated in accordance with the regulations, or make an application for dispute resolution claiming against the security deposit or pet damage deposit.

Residential Tenancy Policy Guideline # 17 Security Deposit and Set Off states

If the landlord does not return or file for dispute resolution to retain the deposits within fifteen days, and does not have the tenant's agreement to keep the deposit, the landlord must pay the tenant double the amount of the deposit.

I find that the Tenants provided their forwarding address to the Landlords on May 8, 2018, and June 14, 2018. There is no evidence before me that the Landlords applied for dispute resolution within 15 days of receiving the Tenants' forwarding address. I find that there was no agreement from the Tenants that the Landlords could retain the pet damage deposit.

I find that the Landlord's breached section 38 of the Act. Pursuant to section 38(6) of the Act, the Landlords must pay the Tenants double the amount of the pet damage deposit. I order the Landlord to pay the Tenants the amount of \$1,460.00.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Landlord to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution.

I grant the Tenants a monetary order in the amount of \$1,560.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Landlord is cautioned that costs of such enforcement are recoverable from the Landlord.

Conclusion

The Landlord was served with the Notice of Dispute Resolution Proceeding but failed to attend the hearing.

The Landlord failed to make claim against or return or the pet damage deposit to the Tenants in accordance with section 38 of the legislation. The Landlord owes the Tenants \$1,460.00.

I order the Landlord to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution.

I grant the Tenants a monetary order in the amount of \$1,560.00.

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: December 17, 2018

Residential Tenancy Branch