



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCL-S, FFL

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. A monetary order in the sum of \$200 for reimbursement of a strata fine they paid that was caused by the conduct of the tenant.
- b. An Order to retain the security deposit.
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present. The parties acknowledged they had received the documents of the other party.

I find that the Application for Dispute Resolution and Notice of Dispute Resolution Hearing was served on the Tenant by mailing, by registered mail to the forwarding address provided by the Tenant on March 28, 2019. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the landlord is entitled to A Monetary Order and if so how much?
- b. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence:

The parties entered into a one year fixed term written tenancy agreement that provided that the tenancy would start on March 15, 2018, end on March 15, 2019 and become month to month after that. The rent was \$3000 per month payable on the first day of

each month. The tenant paid a security deposit of \$1500 at the start of the tenancy. In December 2018 the tenant obtained a cat for emotional support and paid the landlord a pet damage deposit of \$1500.

The tenant gave the landlord a Notice to End the tenancy and vacated the rental unit on March 15, 2019.

In December 28, 2018 the landlord received Notice from the Strata Corporation (which copied the Tenant) that the Tenant had caused a Bylaw Infraction of improperly disposing of several large black wooden pieces on the garbage room floor and advising that the landlord/Tenant would be charge a fine of \$200.

The landlord contacted the Tenant and she told the landlord stating she would be providing the Strata Corporation with a response. The tenant failed to provide the response and on February 5, 2019 the Strata Corporation issued a Notice of Decision imposing a fine of a fine of \$200.

The Tenant refused to pay the fine. The Tenant vacated the rental unit on March 15, 2019. The landlord paid the fine on April 1, 2019.

The landlords held a security deposit of \$1500 and a pet damage deposit of \$1500. The tenancy ended on March 15, 2019. The tenant provided the landlord with her forwarding address in writing a few days later. The landlords filed their claim on March 22, 2019. The landlords returned \$2700 of the security deposit/pet damage deposit. There is a dispute as to when that occurred. The landlords testified it occurred on April 1, 2019. The Tenant testified that did not occur until April 12, 2019.

At the time the tenancy began the Tenant signed the tenancy agreement and also the Form K – NOTICE OF TENANT'S RESPONSIBILITIES which provided that the tenant agreed to comply with the bylaws and rules that are in force from time to time and also that that if the tenant contravened a bylaw or rule the tenant was responsible and may be subject to penalties, including fines....

The tenant provided a submission that included the following:

- The landlords have withholding, without her consent of her security deposit/pet damage deposit.
- Strata properties and orders enforcing a payment of a strata fine is not under the jurisdiction of the Residential Tenancy Act.

- She is seeking the \$600 which is the doubling of the \$300 deposit held by the landlords.

The Law::

Section 67 of the Residential Tenancy Act provides as follows:

Director's orders: compensation for damage or loss

67 Without limiting the general authority in section 62 (3) [director's authority respecting dispute resolution proceedings], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Section 131(1) of the Strata Property Act provides

Landlord's and owner's responsibility for fines and costs incurred by tenant

131 (1) If the strata corporation fines a tenant or requires a tenant to pay the costs of remedying a contravention of the bylaws or rules, the strata corporation may collect the fine or costs from the tenant, that tenant's landlord and the owner, but may not collect an amount that, in total, is greater than the fine or costs.

(2) If the landlord or owner pays some or all of the fine or costs levied against the tenant, the tenant owes the landlord or owner the amount paid.

Analysis:

After carefully considering all of the evidence and the submissions of both parties I determined the landlords have established a valid claim against the tenant for the payment of the strata fine of \$200 plus the cost of the filing fee of \$100 for a total of \$300 for the following reasons:

I do not accept the submission of the Tenant that a landlord, who has paid a fine caused by a contravention of Strata Bylaws or Rules cannot use the Residential Tenancy process to recover that sum from the contravening Tenant. The Tenant signed a Form K along with the landlord agreeing to follow the bylaws and rules and acknowledging that the failure to do so might result in a fine. The Tenant was aware of her obligations when she signed the Form K. The Tenant was given Notice of the Infraction and was

made aware of the possible fine and the right to challenge the decision. She told the landlords she would respond to the Strata Council. She failed to do so and the fine was levied.

Section 131(2) of the Strata Property Act provides that If the landlord or owner pays some or all of the fine or costs levied against the tenant, the tenant owes the landlord or owner the amount paid. This is a foreseeable loss that might be incurred by a landlord and it is recoverable in this case under the Residential Tenancy Act.

I do not accept the submission of the Tenant that she has the right to the doubling of the security deposit held by the landlord. The landlord filed a claim within 15 days of the latest of the end of the tenancy or when the landlord received the Tenant's forwarding address in writing.

I determined the landlords have established a valid claim against the Tenant for the reimbursement of the cost of paying the strata fine in the sum of \$200 plus the sum of \$100 for the cost of the filing fee for a total of \$300.

Security Deposit:

The landlords have retained \$300 of the security deposit. I ordered the landlords may retain this sum in satisfaction of this claim.

This decision is final and binding on both parties.

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: May 03, 2019

Residential Tenancy Branch