



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CENTURY 21 ENERGY REALTY LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL MNDL-S

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order to retain the security or pet deposit pursuant to section 38 of the *Act*, and
- a return of the filing fee pursuant to section 72 of the *Act*.

Only the landlord's agent, C.S. attended the hearing by way of conference call. C.S. was given a full opportunity to be heard, to present testimony and to make submissions.

C.S. stated the tenants were provided with a copy of the landlord's evidentiary package and application for dispute via Canada Post Registered Mail on October 17, 2019. A copy of the Canada Post receipt was included with the landlord's evidentiary package. Pursuant to sections 88, 89 & 90 of the *Act* the tenants are deemed served with these documents on October 22, 2019, five days after their posting.

Issue(s) to be Decided

Can the landlord retain the tenants pet deposit?

Can the landlord recover the filing fee?

Background and Evidence

The landlord's agent explained this tenancy began on November 5, 2018 and ended on September 30, 2019. Rent was \$1,350.00 per month and two deposits (Pet and

Security) of \$675.00 each were paid by the tenants. The landlord confirmed they continue to hold both deposits.

The landlord is seeking a monetary award of \$400.00 representing damage to the rental unit due to the presence of a cat. The landlord said the window sills needed repair following the conclusion of the rental unit. Additionally, the landlord explained some minor repairs were required in the bathroom. As part of their evidentiary package the landlord produced invoices for the repairs required in the rental unit, along with a condition inspection report completed at the start and conclusion of the tenancy. The report from the beginning of the tenancy notes no damage as described by the landlord. The landlord testified that the tenants disagreed with their assessment of the damage and had previously argued that the damage was pre-existing.

Analysis

Section 38 of the *Act* requires the landlord to either return a tenant's security and pet deposit in full or file a claim against a tenant's deposit within 15 days of the later of the end of the tenancy or by the date a tenant's forwarding address is received in writing. The landlord explained the tenancy ended on September 30, 2019 and that she applied on October 9, 2019 to retain the tenant's security and pet deposit. The landlord has therefore fulfilled the requirements of section 38(1)(d) of the *Act* by applying to retain the tenants' security deposit.

I accept the landlord's undisputed testimony that the damage in the rental unit resulted from the presence of a cat in the home. The landlord produced a detailed invoice evidencing the amount paid to repair the damage and has therefore satisfied the requirements of section 67 of the *Act* and Policy Guideline 16 requiring evidence of loss.

As the landlord was successful in her application, she may recover the \$100.00 filing fee from the tenant. I find the landlord may retain \$500.00 of the tenants' pet deposit in satisfaction of the required repairs along with a return of the filing fee.

The landlord is ordered to return the remaining pet and security deposit.

Conclusion

The landlord was successful in her application. She may retain \$500.00 from the tenants' pet deposit. This amount includes a return of the filing fee.

The landlord must return the tenants' security deposit in full and the remaining \$175.00 of the pet deposit.

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: February 07, 2020

Residential Tenancy Branch