Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DELAWARE PROPERTIES (GRANDVIEW) HOLDINGS LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNDL-S, MNDCL-S, FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for damage to the rental unit; to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

Section 61 of the *Residential Tenancy Act (Act)* states that upon accepting an application for dispute resolution, the director must set the matter down for a hearing and that the director must determine if the hearing is to be oral or in writing. In this case, the hearing was scheduled for a teleconference hearing.

Rule 10.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the arbitrator. The arbitrator may conduct the hearing in the absence of a party and may decide or dismiss the application, with or without leave to re-apply.

This hearing was scheduled to commence at 1:30 p.m. on June 05, 2020. on April 06, 2020. The Tenant joined the teleconference at the scheduled start time.

The Tenant stated that he and the second Respondent each received the Landlord's Dispute Resolution Package and evidence in the mail. He stated that he is representing the second Respondent at these proceedings.

On the basis of the testimony of the Tenant, I find that the second Respondent received notice of this hearing and that the Tenant is representing the second Respondent at

these proceedings. I therefore find it reasonable to proceed with the hearing in the absence of the second Respondent.

The Landlord did not join the teleconference at the scheduled start time of the hearing. By the time the teleconference was terminated at 1:43 p.m., the Landlord had still not joined the teleconference. As the Landlord was aware of the time/date of the hearing, the hearing proceeded in the absence of the Landlord.

Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for mailing costs, and to keep all or part of the security deposit?

Background and Evidence

The Tenant stated that:

- the tenancy began on March 01, 2019;
- the tenancy ended on December 30, 2019;
- the Tenant paid a security deposit of $1,147.50;
- the Tenant paid a pet damage deposit of $1,147.50;
- a condition inspection report was completed at the beginning of the tenancy;
- a condition inspection report was completed at the end of the tenancy;
- the Tenants provided the Landlord a forwarding address on December 30, 2019, by writing it on the final condition inspection report;
- the Tenants did not give the Landlord written permission to keep any portion of the pet damage deposit; and
- the security deposit of $1,147.50 was returned to the Tenant in early January of 2020.

The Landlord is seeking compensation, in the amount of $126.00, for cleaning the carpet and $9.75 for mailing costs. The Tenant does not feel the Landlord is entitled to these claims.

Analysis

Section 38(1) of the *Act* stipulates 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 either repay the security deposit and/or pet damage deposit or file an Application for Dispute Resolution claiming against the deposits.

On the basis of the undisputed evidence, I find that the Landlord complied with section 38(1) of the *Act* when he returned the security deposit to the Tenant in early January of 2020.

On the basis of the undisputed evidence I find that the Landlord complied with section 38(1) of the *Act*, when he filed an Application for Dispute Resolution claiming against the pet damage on January 13, 2020, which is 14 days after the tenancy ended.

Section 38(6) of the *Act* stipulates that if a landlord does not comply with subsection 38(1) of the *Act*, the landlord must pay the tenant double the amount of the security deposit, pet damage deposit, or both, as applicable. As I have found that the Landlord did comply with section 38(1) of the *Act,* the Landlord is not obligated to return double of either the pet damage deposit or the security deposit.

As the Landlord did not attend the hearing in support of his claims and the Tenant does not agree that the Landlord is entitled to the claims made, I find that the Landlord has submitted insufficient evidence to establish the Landlord has a right to keep any portion of the pet damage deposit.

As the Landlord has not established a right to keep any portion of the pet damage deposit, I find the deposit must be returned to the Tenants.

I find that the Landlord has failed to establish the merit of this Application for Dispute Resolution and I therefore dismiss the application to recover the fee for filing this Application for Dispute Resolution.

Conclusion

The Landlord has failed to establish a monetary claim.

The Tenants are entitled to the return of their pet damage deposit. I grant the Tenants a monetary Order for $1,147.50. In the event the Landlord does not voluntarily comply with this Order, it may be served on the Landlord filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: June 08, 2020