



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC

Introduction

On March 2, 2022, the Tenants applied for a Dispute Resolution proceeding seeking an Order to comply pursuant to Section 62 of the *Residential Tenancy Act* (the “Act”). In the details of their dispute however, it is clear that the Tenants were actually applying for a Monetary Order for compensation for a return of the pet damage deposit pursuant to Section 38 of the *Act*. Despite this mistaken Application, given that it is abundantly clear what the Tenants are seeking, I am satisfied that the Landlords would have been sufficiently aware of the case before them. As such, I have proceeded with this hearing based on this finding.

Tenant N.S. attended the hearing; however, neither Landlord attended the hearing at any point during the 35-minute teleconference. At the outset of the hearing, I informed the Tenant that recording of the hearing was prohibited and she was reminded to refrain from doing so. As well, she provided a solemn affirmation.

She advised that on March 25, 2022, as per the Substituted Service Decision dated March 17, 2022, each Landlord was served with a Notice of Dispute Resolution Proceeding, with supporting documents and written evidence, and with a copy of the Substituted Service Decision. This package was served to them, by email, to the Landlords’ noted e-mail address in the Substituted Service Decision. However, the Tenant did not comply with this Substituted Service Decision by submitting proof of this service to the Landlords. Despite this, I am satisfied from the Tenant’s solemnly affirmed testimony that she served these documents in the aforementioned manner. As such, I am satisfied that the Landlords were duly served these documents.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Tenants entitled to a return of double the pet damage deposit?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Tenant advised that the tenancy started on August 1, 2021 as fixed term tenancy of six months. However, the Landlords attempted to end this tenancy with a written letter, dated November 17, 2021, because they were selling the property to a new owner. The rent was established at \$1,550.00 per month and was due on the first day of each month. As well, a security deposit of \$775.00 and a pet damage deposit of \$775.00 were also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

While she indicated that this tenancy was never ended in accordance with the *Act*, she stated that she signed a new tenancy agreement on December 4, 2021 with the new owner of the rental unit. The rent was established at \$1,500.00 per month and was due on the first day of each month. As well, a security deposit of \$750.00 was paid to the new owner of the rental unit.

She testified that she never provided a forwarding address in writing to the Landlords as the Tenants never left the rental unit and the Landlords knew this. In addition, she stated that the Landlords returned the Tenants' security deposit in full by electronic transfer on December 15, 2021. However, despite text message communication between the parties, the Landlords have not returned the pet damage deposit. She referenced documentary evidence submitted to support this position.

Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 44 of the *Act* outlines how a tenancy may end. Based on this Section, the manner in which the Landlords indicated in their letter dated November 17, 2021 was incorrect. In the scenario where a property is sold, the new owner inherits the tenancy agreement under the existing terms. There is no requirement for the Tenants to sign a new tenancy agreement, and the Landlords simply give the security deposit and pet damage deposit to the new owner to deal with once the tenancy officially ends in accordance with the *Act*.

Clearly, this was not done in this instance. However, as the Landlords returned the Tenants' security deposit in full on December 15, 2021, I am satisfied that both parties agreed that the tenancy between the Landlords and the Tenants ended, likely as of December 1, 2021.

Pursuant to Section 38 of the *Act*, if the Tenants want their pet damage deposit returned, they must first provide a forwarding address in writing to the Landlords. Despite the Tenants never leaving the rental unit, given that the Tenant acknowledged that they never provided a forwarding address in writing to the Landlords, I find the Tenants' Application on this issue to be premature.

As I am satisfied that the Landlords have been duly served with the Tenants' Notice of Dispute Resolution Proceeding packages, and with a copy of the Substituted Service Decision, the Landlords are put on notice that they now have the Tenants' forwarding address, and they must deal with the pet damage deposit pursuant to Section 38 of the *Act*. The Landlords are deemed to have received the Decision 5 days after the date it was written and will have 15 days from that date to deal with the pet damage deposit.

If the Landlords do not deal with the pet damage deposit within 15 days of being deemed to have received this Decision, the Tenants can then re-apply for double the pet damage deposit pursuant to Section 38 of the *Act*.

Conclusion

Based on above, I dismiss the Tenants' Application with respect to the return of the pet damage deposit with leave to reapply. The Landlords are put on notice that they now have the Tenants' forwarding address and they must deal with the pet damage deposit pursuant to Section 38 of the *Act*. The Landlords are deemed to have received the

Decision 5 days after the date it was written and will have 15 days from that date to deal with the pet damage 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: May 19, 2022

Residential Tenancy Branch