



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This hearing was convened as a result of the cross-applications of the parties for dispute resolution under the *Residential Tenancy Act* (the “Act”). The landlord applied for a monetary order of \$2,225, to retain the security deposit of \$825 and the pet damage deposit of \$150 towards any amount owed, and for the filing fee. The tenants applied for a monetary claim of \$1,950 for the return of double their combined deposits.

The parties listed on the cover page of this decision attended the hearing and were affirmed. The hearing process was explained as were expectations around conduct during the hearing.

I have reviewed all evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary and Procedural Matters

The tenants had to be cautioned several times throughout the hearing for interrupting and inappropriate laughing. As a result, the male tenant, C.S. was eventually muted on July 17, 2023, for the remainder of the hearing due to the inappropriate laughing and behaviour.

The email addresses for both parties were confirmed during the hearing.

The tenants had their filing fee waived.

Issues to be Decided

- Is either party entitled to compensation under the Act?

- What should happen to the security deposit and pet damage deposit under the Act?
- Is the landlord entitled to the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted. A fixed-term tenancy began on August 1, 2021, and ended on April 30, 2022 based on a previous decision (Previous Decision). The Previous Decision file numbers have been included on the cover page of this decision for ease of reference and was settled by mutual agreement of the parties.

The parties confirmed there was no incoming or outgoing Condition Inspection Report (CIR), which I will address later in this decision.

The tenants have claimed for double their security deposit of \$825 and their pet damage deposit of \$150, or \$975 in combined deposits (Combined Deposits). The landlord filed their application claiming towards the Combined Deposits on May 8, 2022, which is within 15 days of April 30, 2022, the end of tenancy date. As a result, the tenant's application for double the Combined Deposits is dismissed, which I will address later in this decision.

Regarding the landlord's claim, the landlord has applied for the following:

1. Loss of \$1,650 for May 2022 due to tenants damage of the rental unit,
2. \$475 for repairs to the rental unit,
3. \$100 filing fee.

Regarding item 1, the landlord provided photo evidence and witness testimony from D.F., confirming that the tenants damaged the cabinets by forcing a door open to place used kitty litter and cat feces behind the drywall in the kitchen. Witness D.F. confirmed that the kitty litter and cat feces were fresh so had to be done by the tenants as it had not been there long.

Neither tenant denied hiding kitty litter and cat feces and instead wanted to question how D.F. knew it was fresh kitty litter and cat feces. D.F. testified that the cabinets were not fixable and had to be replaced due to the damage left behind by the tenants. D.F. confirmed that it was at least \$1,000 to replace the damaged cabinets. The landlord stated that the \$475 claim for damages was a low estimate.

The landlord stated that they were unable to re-rent the rental unit due to the horrible smell in the rental unit and damage by the tenants. D.F. confirmed that the horrible smell was the used kitty litter and cat feces behind the kitchen drywall.

Analysis

Based on the documentary evidence and testimony of the parties, and on the balance of probabilities, I find the following.

Firstly, section 38 of the Act states that the landlord has 15 days to either return the security deposit and pet damage deposit or file a claim against both. The 15 days does not start until the later of either the end of tenancy or the written forwarding address. I find the landlord had the written forwarding address of the tenants by April 30, 2022, and filed their claim against the tenants on May 8, 2022. As a result, I dismiss the tenants' application in full as I find they are not entitled to double the return of the Combined Deposits.

I find the tenants were not credible for several reasons. Firstly, they disagreed with each other throughout the hearing. Secondly, the tenants did not specifically deny damaging the rental unit by inserting used kitty litter and cat feces behind the drywall of the rental unit. I find that behaviour completely unreasonable in any tenancy. In addition, the tenants inappropriately laughed and interrupted the landlord, witness, and the arbitrator throughout the hearing, which is contrary to the expected conduct the parties were advised of during the hearing.

I find the landlord credible due to consistent testimony and a witness who provided consistent testimony.

Given the above, I find the landlord suffered a loss of \$1,650 for May 2022 due to the tenants' breach of section 37 of the Act. I find the tenants failed to leave the rental unit in a reasonably clean condition and instead purposely left used kitty litter and cat feces behind the kitchen drywall as proven the landlord.

Also grant the full amount of \$475, which I find is a minor amount compared to the damages caused by the tenants.

As the landlord's claim is fully successful, I also grant the landlord the \$100 filing fee.

The Combined Deposits of \$975 have accrued \$10.78 in interest. As a result, I find the landlord continues to hold the Combined Deposits including interest of \$985.78.

As the landlord has proven a total claim of **\$2,225**, I authorize the landlord to retain the \$985.68 of Combined Deposits including interest in partial satisfaction of the landlord's claim. I award the landlord a monetary order under section 67 of the Act owing by the tenants in the amount of **\$1,239.22**.

The landlord is reminded to complete an incoming and outgoing CIR in any future tenancy.

Conclusion

The tenants' claim fails in its entirety.

The landlord has proven their claim of \$2,225 and have been authorized to retain the Combined Deposits including interest of \$985.78. The tenants owe the landlord \$1,239.22 and I award the landlord a monetary order in that amount.

Should the tenants failed to immediately pay that amount, the landlord may enforce the monetary order after serving it. The tenants are reminded that they can be liable for all enforcement costs, including court costs.

This decision will be emailed to both parties.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 26, 2023

Residential Tenancy Branch