



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's application for a Monetary Order for damage to the rental unit, unpaid rent, damage or loss under the Act, regulations or tenancy agreement and recovery of the filing fee. The tenants did not appear at the hearing. The landlord testified that the tenants were served with notification of this hearing by registered mail sent to their current residence. The landlord provided two tracking numbers as evidence of service. A search of the tracking numbers showed that the registered mail was successfully delivered. Having been satisfied the landlord adequately served the tenants with notification of this hearing, I proceeded to hear from the landlord without the tenants present.

Issues(s) to be Decided

1. Has the landlord established an entitlement to compensation from the tenants for damage to the rental unit?
2. Has the landlord established an entitlement to compensation from the tenants for unpaid rent?
3. Has the landlord established an entitlement to compensation from the tenants for damages or loss under the Act, regulations or tenancy agreement?
4. Award of the filing fee.

Background and Evidence

The landlord testified as follows. The one-year fixed term tenancy began in November 2008. The tenants were required to pay rent of \$1,550.00 on the 1st day of each month. The tenants paid a \$750.00 security deposit in December 2008. The landlord received only a partial rent payment for January 2009 and no rent for February 2009. The tenants vacated the rental unit at the end of February 2009. The parties conducted a move-in inspection on December 7, 2008 – after the tenants moved in – and the inspection report was signed by both parties. The landlord posted a notice of a move-out inspection for March 1, 2009 on the rental unit door during the last week of February 2009. The landlord confirmed that the tenants were still moving their belongings out of the rental unit during that week and that the tenants still had keys to the rental unit. The tenants did not appear for the move-out inspection. The landlord proceeded to have two move-out inspection reports prepared by two of her friends.

The landlord submitted that the tenants had three boys, 4 dogs, a litter of puppies and a cat in the rental unit. After the tenants vacated the landlord discovered the rental unit in a filthy and damaged condition. Upon enquiry, the landlord explained that the basement carpet had to be removed, the window screens were damaged, the drywall was damaged and stained, the bedroom carpet required cleaning, the banister was broken, the closet door was broken, as were dimmer switches and the kitchen island.

In making this application, the landlord is seeking compensation for the following amounts:

February 2009 unpaid rent	\$ 1,550.00
Loss of rent for March and April 2009	3,100.00
Time spent cleaning (13.5 hrs)	270.00
Painting and repair costs	1,890.00
Replacement toilet seat, dimmer switches, door stops and tension roller	<u>32.85</u>
Total claim	\$ 6,842.85

Upon further enquiry, the landlord stated that during the month of March 2009 the rental unit was cleaned, basement carpet removed and a repairman was found. In April 2009 the repairman made the repairs and painted the unit. Advertising efforts commenced in mid March 2009 and a replacement tenant was located for May 2009. Advertising included postings on the internet and community bulletin board. I also heard that the rental unit was last re-painted in the spring of 2008.

I noted that the landlord was not claiming any unpaid rent for January 2009 or the security deposit. The landlord explained that the remainder of the outstanding rent was paid by way of the security deposit. An undated letter from the landlord to the tenant mentions that the January 2009 rent was paid in two instalments.

As evidence for the hearing, the landlord provided copies of the tenancy agreement, move-in inspection report and two move-out inspection reports, an invoice for the painting and repairs, the move-out inspection notice, and communications between the parties regarding unpaid rent, ending the tenancy, the condition of the rental unit and dogs in the rental unit.

Analysis

A party that makes an application for monetary compensation has the burden to prove their claim. In accordance with sections 7 and 67 of the Act, the applicant must be able to show following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss;
3. Verification of the value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Upon consideration of all of the evidence before me, I am satisfied that the tenants failed to pay rent for the month of February 2009 and this is owed to the landlord under the terms of the tenancy agreement.

I am also satisfied that the preponderance of evidence substantiates the landlord's position that the rental unit was left in a very filthy and damaged condition by the tenants which is a violation of the Act and that this violation caused the landlord to incur costs and time to repair the property and make it inhabitable for subsequent tenants. The landlord has provided sufficient evidence of the costs and time spent by her to remedy the damage.

With respect to two months of loss of rent, I find the repairman's invoice sufficiently demonstrates that repair work was extensive and that it had to be performed during March and April 2009. I am satisfied the landlord took reasonable action to minimize the loss of rent by cleaning the rental unit, making repairs and advertising the unit in a timely manner. Therefore, I hold the tenants responsible for the loss of rent during March and April 2009.

In light of the above findings, I approve of the landlord's monetary claim in the full amount. I also award the filing fee to the landlord. The landlord is provided with a Monetary Order in the amount of \$6,942.85 including the filing fee. The Monetary Order must be served upon the tenants and may be filed in the Provincial Court (Small Claims) to enforce as an Order of that court.

Conclusion

The landlord was successful in establishing a monetary claim against the tenants and has been provided a Monetary Order in the total amount of \$6,942.85.

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: January 29, 2010.

Dispute Resolution Officer