



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by an agent for the landlord only, the tenants did not attend.

The landlord's agent testified the tenant was served with the notice of hearing documents and the Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on December 30, 2011 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenants on the 5th day after it was mailed.

Based on the testimony of the landlord, I find that the tenants have been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent and other charges; for damage to the unit; for cleaning; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 37, 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on November 11, 2004 for a 13 month and 2 day fixed term tenancy beginning on November 28, 2011 that converted to a month to month tenancy on December 1, 2005 with rent due on the 1st of each month and a security deposit of \$400.00 paid. The amount of rent at the end of the tenancy was \$955.00 per month.

The landlord submits the tenants paid only \$100.00 towards rent for November 2011 and did not pay any rent for December 2011. The landlord's agent testified that on December 17, 2011 the tenants provided the landlord with verbal notice that they were vacating the rental unit on that day.

The landlord seeks compensation for the outstanding rent of \$1,810.00; late fees of \$50.00 (as per the tenancy agreement); and \$4.00 for parking for the months of November and December 2011. The landlord has submitted a copy of the tenant ledger confirming these amounts and payments made throughout the tenancy.

The landlord also has submitted a Condition Inspection Report signed by the landlord and the male tenant on December 17, 2011. The Report indicates that at move in the entire rental unit was damaged (the code letter D was used on the report, which by the legend indicates damaged).

The landlord's agent testified the D used actually meant the unit was dirty and the landlord seeks cleaning costs in the amount of \$75.00 plus supplies of \$5.00. The agent further testified that there was minor damage like door knobs missing from closet doors. The agent testified the landlord only charged \$60.00 for these minor repairs because the rental unit was completely gutted after these tenants vacated so it could be renovated.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

I accept from the landlord's agent's testimony and the tenant's ledger that the tenants have failed to pay the rent as stated and I find the landlord is entitled to recover the costs of rent; parking and late fees as a result.

As to the cleaning and repair charges, I find that despite the submission of the Condition Inspection Report the agent completed with the male tenant on December 17, 2011, the landlord's recording in that report does not provide sufficient evidence of the condition of the rental unit at the end of the tenancy to warrant the landlord charging the tenant anything for cleaning or repairs.

Further, as per the agent's testimony, I find that since the landlord completely renovated the rental unit at the end of the tenancy it would be unfair to charge the tenants for either cleaning or any repairs that may have been required as part of the renovation.

For these reasons, I dismiss the portion of the landlord's Application seeking compensation for cleaning and repairs.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,914.00** comprised of \$1,810.00 rent owed; \$4.00 parking; \$50.00 late fees and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$414.17 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,499.83**.

This order must be served on the tenants. If the tenants fail to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 *Residential Tenancy Act*.

Dated: March 07, 2012.

Residential Tenancy Branch