



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the landlords application for a Monetary Order for unpaid rent; a Monetary Order for damage to the unit, site or property; for an Order permitting the landlord to keep all or part of the tenants security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the/landlord to the tenants, was done in accordance with section 89 of the *Act*, sent via registered mail on January 25, 2013. Mail receipt numbers were provided in the landlord's documentary evidence. The tenants are deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?

- Is the landlord entitled to a Monetary Order for damage to the unit?
- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the landlord permitted to keep the security deposit?

Background and Evidence

The landlord testifies that this tenancy started on September 01, 2011 for a fixed term of six months. The tenancy continued after that time on a month to month basis. Rent for this unit was \$1,450.00 per month and was due on the 1st day of each month in advance. The tenants paid a security deposit of \$725.00 on August 11, 2011. The tenants left a forwarding address at the unit when they moved out without notifying the landlord on or about January 15, 2013.

The landlord testifies that the tenants failed to pay rent for January, 2013. A 10 Day Notice to End Tenancy was served upon the tenants on January 02, 2013 which the landlord testifies had an effective date of January 12, 2013. The landlord seeks to recover this unpaid rent and a late fee of \$20.00 as provided for under the tenancy agreement.

The landlord testifies that the unit was advertised for rent as soon as the landlord became aware the tenants had moved out. The landlord has provided copies of the advertisements in evidence. The landlord testifies that the unit could not be re-rented until March 15, 2013. The landlord seeks to recover a loss of rental income for February of \$1,450.00.

The landlord testifies that the tenant left the rental unit in a filthy condition as shown on the move out condition inspection report provided in evidence. The landlord seeks to recover the amounts paid to clean the unit, remove the garbage and items left by the tenants, to clean the windows, the drapes and blinds and to have the carpet cleaned.

The landlord seeks to recover the following sums for this work and has provided the invoices for this work in evidence.

Carpet cleaning - \$84.00

Drapes and blinds - \$84.00

Window cleaning - \$33.60

Removal of garbage and items abandoned - \$89.60

General suite cleaning - \$168.00

The landlord has applied to keep the security deposit of \$725.00 in partial satisfaction of this claim. The landlord also seeks to recover the \$50.00 filing fee from the tenants.

Analysis

The tenants did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenants, I have carefully considered the landlords documentary evidence and sworn testimony before me.

I refer the tenants to s. 26 of the *Act* which states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently I find the landlord has established a claim for unpaid rent for January to the sum of **\$1,450.00**. I further find that the tenancy agreement signed by the parties on August 11, 2011 notifies the tenants that a late fee of \$20.00 will be charged. I therefore find in favor of the landlords claim to recover the late fee for January, 2013 of **\$20.00**.

With regard to a loss of rental income for February, 2013; I refer the parties to the Residential Tenancy Policy Guidelines #3 which states, in part, that in a month to month tenancy, if the tenancy is ended by the landlord for non-payment of rent, the landlord

may recover any loss of rent suffered for the next month as a notice given by the tenant during the month would not end the tenancy until the end of the subsequent month.

In all cases the landlord's claim is subject to the statutory duty to mitigate the loss by re-renting the premises at a reasonably economic rent. I find the landlord did attempt to re-rent the unit as soon as the landlord determined that the tenants had left the unit and the unit was not re-rented until March 15, 2013. Therefore I find the landlord has established a claim to recover a loss of rental income for February, 2013 to the amount of \$1,450.00.

With regard to the landlords claim for damages to the unit; the landlord has provided sufficient evidence to show that the unit was left in an unclean condition at the end of the tenancy. The landlord has shown the actual costs to clean the unit, the carpets and drapes and blinds and to remove the garbage from the unit. I therefore find in favor of the landlords claim for damages to the unit to the total sum of **\$459.20**.

I Order the landlord to keep the security deposit of **\$725.00** pursuant to s. 38(4)(b) of the *Act* in partial satisfaction of the landlords monetary claim. I further find the landlord is entitled to recover the \$50.00 filing fee from the tenants pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlord pursuant to s. 67 and 72(1) of the *Act* as follows:

Unpaid rent for January	\$1,450.00
Late fee for January	\$20.00
Loss of rental income for February	\$1,450.00
Cleaning	\$459.20
Filing fee	\$50.00
Less security deposit	(-\$725.00)
Total amount due to the landlord	\$2,704.20

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,704.20**. The order must be served on the respondents and is enforceable through the Provincial Court 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: April 17, 2013

Residential Tenancy Branch

