



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, MND, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for a monetary order for unpaid rent, for compensation under the Act and the tenancy agreement, for damage to and cleaning of the rental unit, and requests to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified she served the Tenants in person on March 2, 2013, with the Notice of Hearing, the Application and her evidence. This was witnessed by a third party. Despite this the Tenants did not appear at the hearing. I find the Tenants have been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to the monetary compensation sought from the Tenants?

Background and Evidence

This tenancy began on July 1, 2011, with the parties entering into a standard form tenancy agreement. The rent was \$1,300.00 per month, due on the first day of each month. The Tenants paid the Landlord a security deposit of \$650.00 in June of 2011.

The affirmed testimony of the Landlord was that the Tenants sent her a text message on December 30, 2012, informing the Landlord they were leaving the rental unit in a few days. The Landlord testified that a neighbour, who lives next door to the rental unit, informed her that the Tenants moved out of the rental unit on the night of December 22, 2012. In evidence the Landlord has provided a letter from this neighbour. The neighbour writes that she saw a truck being loaded with boxes and furniture by the Tenants at 11:00 p.m. on December 22, 2012.

The Landlord testified she texted the Tenants a few times but they did not reply.

The Tenants put a stop payment on the rent cheque for January 2013. The Landlord testified and has submitted evidence that due to the condition the rental unit was left in, it could not be rented for January 2013 and it took her and her helpers until the middle of February 2013 to return the rental unit to a liveable state.

The Landlord claims she has incurred substantial costs to clean and repair the rental unit due to the condition it was left in by the Tenants and suffered a loss of rent for January and February of 2013.

The Landlord claims as follows:

a.	Unpaid rent for January 2013	1,300.00
b.	Loss of rent for February 2013	1,300.00
c.	Carpet cleaning	112.00
d.	Garbage removal, includes municipal dump fees	544.96
e.	Door installation	336.00
f.	Window replacement	208.77
g.	Materials and supplies: paint, drywall, doors, locks	1,148.75
h.	Extra cleaning supplies and light bulbs	63.64
i.	Key cutting	5.00
j.	Returned cheque fee	5.00
k.	Labour and cleaning costs	3,860.00
	Filing fee	100.00
	Total claimed	\$8,984.12

In evidence the Landlord has provided 39 pages of documents, which include an itemized list of the monetary claims, an affidavit from her daughter explaining the condition of the rental unit and the remediation and cleaning work she helped out with, the tenancy agreement, invoices for materials and labour, letters from witnesses, copies of a returned cheque from the Tenants, and an index to the photographic evidence.

The Landlord has also supplied 85 photographs of the condition the rental unit was in after the Tenants left it.

Analysis

Based on the undisputed testimony and evidence, and on a balance of probabilities, I find the Tenants breached section 45 of the Act by failing to give the Landlord the required Notice to End Tenancy. I find the Tenants should have provided the Landlord with a Notice to End Tenancy which ended at the end of January 2013, as they attempted to give the notice to the Landlord in December 2012. In fact the Tenants did not even serve the Landlord a proper Notice to End Tenancy, as the Act does not recognize service of such a Notice by "text message".

I also find the Tenants breached section 37 of the Act, which required them to leave the rental unit in a reasonably clean state, and with no damage, beyond reasonable wear and tear.

Based on the preponderance of evidence before me, including the 85 photographs, I find the Tenants did not clean the unit or make necessary repairs to items they damaged, such as the doors and a window. These breaches of the Act have caused losses to the Landlord.

Furthermore, I find that due to the condition the rental unit was left in by the Tenants, the Landlord has suffered a loss of rent for one month.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that the Landlord has established claims totalling **\$8,984.12** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the Landlord may retain the deposit of **\$650.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$8,384.12**.

This order must be served on the Tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenants breached the Act and tenancy agreement by failing to give the required Notice to End tenancy, by not leaving the rental unit reasonably clean and undamaged, and by leaving it in a condition which caused the Landlord to suffer an additional loss of one month of rent. The Landlord is granted a monetary award, may keep the security deposit in partial satisfaction of the claim and is granted a monetary order for the balance owed by the Tenants.

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: June 3, 2013

Residential Tenancy Branch