



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, 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; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlords to the tenant, was done in accordance with section 89 of the *Act*; served in person on August 28, 2013.

The landlords appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. The landlords were permitted to provide additional evidence after the hearing had concluded. There was no appearance for the tenant, 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

- Are the landlords entitled to a Monetary Order for unpaid rent?
- Are the landlords entitled to a Monetary Order for damage to the unit, site or property?

Background and Evidence

The landlord JB testifies that this month to month tenancy started on December 01, 2012. Rent for this unit was \$950.00 per month and was due on the first day of each month.

The landlord testifies that the tenant failed to pay all the rent due for June and July, 2013 leaving an unpaid balance for each month of \$50.00. The tenant failed to pay the rent for August, 2013 of \$950.00. The tenant did not give written Notice to end the tenancy and vacated the rental unit on August 15, 2013. The landlord testifies that the tenant asked the landlord to keep the security deposit to cover the rent for the first 15 days of August. The landlord explained in writing to the tenant that he cannot apply the security deposit to the rent.

The landlord testifies that the tenant failed to clean the unit at the end of the tenancy. The tenant left a large amount of rubbish and discarded belongings in the unit. The landlord hired a cleaner to clean the unit and remove the garbage and seeks to recover the cost for this work of \$200.00. The landlord has provided an invoice in evidence for this work.

The landlord testifies that he had to take all the rubbish to the dump and the landlord seeks \$75.00 for his time to do this work which required two trips. The landlord testifies that the tenant left the walls in the unit damaged. The landlord had to fill; sand; and repaint these walls and seeks to recover \$60.00 for his labour to do this work.

The landlord testifies that the tenant failed to clean the carpets in the unit and these were left dirty. The landlord paid a friend with a carpet cleaner \$140.00 to clean the carpets and seeks to recover this amount from the tenant. The landlord has provided an invoice for this work.

The landlord has provided a copy of an inspection report and photographic evidence showing the condition of the unit at the end of the tenancy.

Analysis

The tenant 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

tenant, I have carefully considered the landlords' documentary evidence and sworn testimony before me.

Section 26 of the Act 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.

I am satisfied with the evidence before me that the tenant failed to pay all the rent for June and July, 2013 leaving an unpaid amount of **\$100.00**. I refer the tenant to the *Residential Tenancy Act (Act)* s. 45(1) which states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy that is effective on a date that is not earlier than one month after the date the landlord receives the notice, and is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The landlords do not have to accept the security deposit towards any unpaid rent; as a security deposit is an amount held in trust by a landlord till the end of the tenancy. Consequently, the tenant cannot expect the landlords to apply the security deposit to the rent unless the parties both agree in writing. As the landlord did not agree and informed the tenant of this in writing the tenant was still responsible for the rent for August. The landlords have therefore established a claim for unpaid rent for August, 2013 of **\$950.00**.

With regard to the landlords claim for damages; I am satisfied with the undisputed evidence before me that the tenant failed to leave the rental unit in a reasonably clean condition. The landlord's photographic evidence show rooms full of discarded items; dirty carpets; dirty floors and other areas; and damaged walls. Consequently, I find the landlords have meet the burden of proof that the tenant failed to clean the unit, and the carpets, failed to remove all her belongings and garbage and failed to repair damage to the walls. The landlord has provided evidence of the costs paid to rectify the damage and I find the landlords own costs incurred to remove the garbage and repair and paint

the walls to be reasonable. I therefore uphold the landlords claim for damages and cleaning of **\$475.00**.

As the landlords have been successful with this claim I find the landlords are entitled to recover the filing fee of **\$50.00**. A Monetary Order has been issued to the landlords for the following amount pursuant to s. 67 and 72(1) of the *Act*.

Unpaid rent for June and July - \$100.00

Unpaid rent for August - \$950.00

Damages and cleaning - \$475.00

Filing fee - \$50.00

Total amount due to the landlords – \$1,575.00

Conclusion

I HEREBY FIND in favor of the landlords' monetary claim. A copy of the landlords' decision will be accompanied by a Monetary Order for **\$1,575.00**. The Order must be served on the respondent. Should the respondent fail to comply with the Order, the Order may be enforced 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: December 04, 2013

Residential Tenancy Branch

