



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 MNSD, OPC, OPB, MNR, MND, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking authority to retain the tenants' security deposit and pet damage deposit, an order of possession for the rental unit due to alleged cause or due to breach of an agreement with the landlord, a monetary order for unpaid rent and alleged damage, and for recovery of the filing fee

The landlord attended the telephone conference call hearing; the tenants did not attend.

The landlord submitted evidence that they served each tenant with the Application for Dispute Resolution and Notice of Hearing by registered mail on February 3, 2014, and with their amended application and evidence by registered mail on February 20, 2014. The landlord supplied the registered mail receipts and tracking history showing the tracking numbers of the registered mail.

Based upon the submissions of the landlord, I find the tenants were served notice of this hearing in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary matter-The landlord submitted that since the filing of their original application and their amended application, the tenants have vacated the rental unit and

no longer were requesting an order of possession for the rental unit. I have therefore amended their application and removed such request.

The landlord additionally requested that the portion of their application seeking monetary compensation for damage to the rental unit was premature and requested a withdrawal of such request. I therefore allow such request and the landlord is at liberty to reapply for such monetary compensation.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent and to recover the filing fee?

Background and Evidence

This tenancy began on April 4, 2012, ended in the last few days of February 2014, when the tenants vacated the rental unit, monthly rent was \$850, and the tenants paid a security deposit of \$425 and a pet damage deposit of \$200, at the beginning of the tenancy.

The landlord's monetary claim as stated by the landlord at the hearing is for unpaid rent of \$850 for February, 2014, a late fee of \$20 for February, 2014, as allowed by the tenancy agreement, and loss of rent revenue of \$392.10 for the portion of March 2014, that the landlord could not rent the rental unit due to the condition as left by the tenants.

The landlord's relevant documentary evidence included a tenant ledger sheet, a written tenancy agreement, and a 1 Month Notice to End Tenancy for Cause, dated December 12, 2013, for an effective move-out date of January 31, 2014.

The landlord submitted that the tenants were served a 1 Month Notice to End Tenancy for Cause on December 6, 2013, by attaching it to the tenants' door, listing an effective end of tenancy date of January 31, 2014. The landlord testified that the tenants did not dispute the Notice with their own application, failed to vacate the rental unit by January 31, 2014, and instead, stayed in the rental unit until the last few days of February 2014, without paying monthly rent for February.

The landlord submitted that the rental unit had been re-rented for February 15, 2014, as the tenants were to vacate by January 31, 2014, but were unable to allow the subsequent tenants to move in.

The landlord further submitted that the condition of the rental unit at the end of the tenancy prevented the landlord from having new tenants move in until mid March 2014, as the rental unit required many hours to clean and repair.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Under section 57 of the Act, a landlord may claim compensation from a tenant who over holds in the rental unit after a tenancy has ended. In the case before me, I find the tenancy ended by the effective date of the undisputed, 1 Month Notice issued by the landlord to the tenants pursuant to section 47 of the Act and that they failed to do so. I therefore find the landlord is entitled to compensation from the tenants who over held in the rental unit beyond January 31, 2014, in the amount of \$850 for the entire month of February 2014, as claimed by the landlord.

I also accept the undisputed evidence of the landlord that the rental unit was un-rentable for the first part of March 2014 due to the actions or neglect of the landlord, causing the landlord to suffer a loss of rent revenue in the amount of \$392.10, as claimed by the landlord.

I find the landlord is entitled to recovery of the filing fee of \$50.

Due to the above, I find the landlord is entitled to a total monetary award of \$1292.10, comprised of rent for February 2014 in the amount of \$850, loss of rent revenue of \$392.10 for the first part of March 2014, and the filing fee of \$50.

Conclusion

The landlord's application for monetary compensation is granted in large part.

At the landlord's request, I authorize them to retain the tenants' security deposit of \$425 and their pet damage deposit of \$200 in partial satisfaction of their monetary award of \$1292.10 and I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$667.10, which I have enclosed with the landlord's Decision.

Should the tenants fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia

(Small Claims) for enforcement as an Order of that Court. The tenants are advised that costs of such enforcement are recoverable from the tenants.

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 21, 2014

Residential Tenancy Branch

