Dispute Resolution Services

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: MNR; MND; MNDC; MNSD; FF

Introduction

This is the Landlord's application for a Monetary Order for unpaid rent, damages and loss of revenue; to retain the security deposit in partial satisfaction of its monetary award; and to recover the cost of the filing fee from the Tenants.

The Landlord's agent (LD) and the female Tenant (DP) gave affirmed testimony at the Hearing.

The Landlord's agent testified that the Tenants were served with the Notice of Hearing documents by registered mail sent on November 15, 2013, to each of the Tenants at their forwarding addresses provided on the Condition Inspection Report. Copies of the registered mail receipts and tracking numbers were provided in evidence, along with a copy of the move-out Condition Inspection Report. Based on the evidence provided, I am satisfied that both of the Tenants were duly served with the Notice of Hearing documents.

Issues to be Decided

- Is the Landlord entitled to a Monetary Order, and if so, in what amount?

Background and Evidence

LP gave the following testimony:

A copy of the tenancy agreement was provided in evidence. This was a 6 month term lease, starting September 1, 2013, and ending February 28, 2014. Monthly rent was $1,250.00, due the first day of each month. The Tenants paid a security deposit in the amount of $625.00 and a pet damage deposit in the amount of $200.00. The Tenants received a "moving allowance" in the amount of $625.00. LP stated that the Tenants agreed to repay the moving allowance if they ended the tenancy prior to the end of the term.

LP stated that the Tenants moved out of the rental unit without notice. She stated that DP paid a portion of November's rent and returned her keys on November 12, 2013. LP

testified that this was the first indication that the Tenants had moved out. The Landlord completed the move out Condition Inspection with the Tenants separately.

LP stated that the rental unit required cleaning at the end of the tenancy. She stated that the Landlord attempted to re-rent the rental unit for December, 2013, but was not able to do so. LP stated that the rental unit is still vacant. The Landlord provided copies of invoices and confirmation of advertisements in evidence.

The Landlord seeks a monetary award as follows:

Balance of rent for November, 2013	$620.00
Late fee for November, 2013	$20.00
Loss of revenue for December, 2013	$1,250.00
Carpet cleaning	$99.75
Suite cleaning	$168.00
Liquidated damages	$300.00
Recovery of Moving Allowance	$625.00
Recovery of filing fee	$50.00

LP asked to set off the security and pet damage deposits, along with the FOB deposit, against the Landlord's monetary award. She stated that the FOBs were returned, but that the Landlord still holds the deposit.

DP gave the following testimony:

DP stated that she moved out of the rental unit on September 11, 2013, because the male Tenant was abusive, and therefore she should not be held responsible for unpaid rent or damages. She stated that she was escorted by the police for her own safety because of physical violence. DP testified that she paid her half of the rent for the months of October and November, 2013, and that she has had no contact with the male Tenant and no access to the rental unit since September, 2013.

DP testified that she did not have a mutual agreement with the Landlord to end the tenancy.

Analysis

Based on the testimony of both parties, I find that the Tenants did not comply with Sections 26 and 45 of the Act and that the Landlord suffered a loss as a result of the Tenants' breach. I explained to DP that, as a co-tenant, she was jointly and severally responsible for debt or damages arising out of the tenancy. In other words, the

Landlord may pursue one or both of the Tenants and it is up to the Tenants to apportion any monetary award between themselves.

I find that the Landlord has established a monetary award for unpaid rent and loss of revenue as claimed. There is a clause in the tenancy agreement that allows for late charges in the amount of $20.00 and this portion of the Landlord's application is also granted.

Based on the Landlord's testimony and the Condition Inspection Report, I find that the Landlord is entitled to the cost of cleaning the carpets and general suite cleaning.

There is a liquidated damages clause in the tenancy agreement. I find that this clause is not a penalty and that the Landlord is entitled to liquidated damages for the administrative costs incurred in attempting to re-rent the rental unit.

I dismiss the Landlord's claim with respect to recovery of the Moving Allowance fee. There is no provision in the Act for such a fee. The Landlord *may* have a remedy in Small Claims Court, but I find that I have no jurisdiction with respect to this part of the Landlord's claim.

I hereby set off the security deposit, pet damage deposit and FOB deposit against the Landlord's monetary award.

The Landlord's Application had merit and I find that it is entitled to recover the cost of the filing fee from the Tenants.

I hereby provide the Landlord with a Monetary Order, calculated as follows:

Unpaid rent and Loss of revenue	$1,870.00
Late fees for November, 2013	$20.00
Carpet and suite cleaning	$267.75
Liquidated damages	$300.00
Recovery of the filing fee	$50.00
Subtotal	$2,507.75
Less security deposits held by Landlord	- $865.00
TOTAL AMOUNT DUE TO THE LANDLORDS AFTER SET-OFF	**$1,642.75**

Conclusion

The Landlords is hereby provided with a Monetary Order in the amount of **$1,642.75** for service upon the Tenants.   This Order may be filed in the Provincial Court of British Columbia (Small Claims) and 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 17, 2014

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Residential Tenancy Branch