



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sterling Management Services Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MND, MNSD, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent or utilities; 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 and pet 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*; served by registered mail on February 21, 2014. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenants were 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 or utilities?

- Is the landlord entitled to a Monetary Order for damage to the unit, site or property?
- Is the landlord permitted to keep all or part of the security and pet deposits?
- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?

### Background and Evidence

The landlord testified that this tenancy started on December 01, 2013 for a fixed term tenancy which was due to expire on November 30, 2014. Rent for this unit was \$1,400.00 per month due on the first of each month plus \$50.00 a month for water. The tenants paid a security deposit of \$700.00 on November 20, 2013 and a pet deposit of \$700.00 which was transferred over from another property on November 20, 2014. The landlord has provided a copy of the tenancy agreement in evidence.

The landlord testified that the tenants failed to pay all the rent for January, 2014 leaving an unpaid balance of \$160.00. A 10 Day Notice to End Tenancy had been served upon the tenants for this amount on January 28, 2014 and the tenants vacated the rental unit without paying the rent arrears on or about January 28, 2014.

The landlord testified that the unit was not re-rented until April 01, 2014 and as the tenants had a lease agreement for a year the landlord seeks to recover a loss of rent for February and March from the tenants of \$2,800.00.

The landlord testifies that he was not the agent dealing with this property at the time and only joined the company later. The agent that was dealing with this property has since left the company. Due to this the landlord is not familiar with what work was completed on the property for the damage caused by the tenants to the shed and fence. The landlord therefore withdraws this portion of the claim.

The landlord testified that the unit was left in an unclean condition as shown by the move out condition inspection report. The tenants also left a large amount of garbage and debris at the unit. The landlord seeks to recover cleaning costs of \$504.00 for two cleaners who cleaned for eight hours each at \$30.00 per hour. An invoice from the cleaning company has been provided in documentary evidence. The landlord also seeks to recover the dump fees of \$35.00 and has provided the dump fee receipt in documentary evidence. The landlord limited their claim to these items only.

The landlord seeks an Order to keep the security and pet deposit in partial satisfaction of their claim and requests a Monetary Order for the balance plus the \$50.00 filing fee

### Analysis

The tenants did not appear at the hearing to dispute the landlord's 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 landlord's documentary evidence and sworn testimony before me. With regard to the landlord's claim for unpaid rent I refer the parties 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 am satisfied with the undisputed evidence before me and find the tenants owe rent of \$160.00 for January, 2014. I therefore find in favour of the landlord's claim to recover this amount from the tenants.

With regard to the landlord's claim for a loss of rental income for February and March, 2014; I am satisfied with the undisputed evidence before me that the tenants left the rental unit on or about January 28, 2014. I further find that as this was a fixed term tenancy, even though the landlord had issued a 10 Day Notice to End Tenancy for

unpaid rent, the tenants are liable for any loss of rent that the landlord incurs either up to the time the unit can be re-rented or the tenancy agreement between the tenants and landlord legally ends. As the landlord was able to mitigate the loss by re-renting the unit on April 01, 2014; it is my decision that the landlord is entitled to recover a loss of rental income for February and March, 2014 of \$2,800.00 from the tenants.

With regard to the landlord's claim to recover cleaning costs of \$504.00; I have reviewed the evidence before me and find the condition inspection report and photographic evidence clearly shows that the tenants did not leave the rental unit in a reasonable clean condition at the end of the tenancy. I therefore find the landlord has met the burden of proof in this matter that the tenants did not meet their obligations under s. 32 of the *Act* to clean and maintain the unit and the landlord has shown the actual costs incurred to have the unit professionally cleaned. I therefore uphold the landlord's claim for \$504.00.

With regard to the landlord's claim for dump fees; I am satisfied from the undisputed evidence before me that the tenants failed to remove all their garbage and debris from the rental unit. I am also satisfied that the landlord has established the actual cost incurred in having the garbage removed to the dump. I therefore uphold the landlord's claim for \$35.00.

I ORDER the landlord to keep the security deposit of \$700.00 and the pet deposit of \$700.00 pursuant to s. 38(4) (b) of the *Act*. These amounts have been offset against the landlord's monetary claim.

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* for the following amount:

Unpaid rent for January, 2014	\$160.00
Loss of rental income February and	\$2,800.00

March, 2014	
Cleaning	\$504.00
Dump fees	\$35.00
Filing fee	\$50.00
Less security and pet deposit	(-\$1,400.00)
Total amount due to the landlord	\$2,149.00

As the landlord has withdrawn the remainder of their claim at this time I am not required to deal with those portions of the claim. The landlord is; however, at liberty to reapply for further damages once they have been repaired and an actual cost established.

### Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,149.00**. The Order must be served on the respondents. Should the respondents 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: June 06, 2014

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Residential Tenancy Branch

