



# Dispute Resolution Services

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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      MND, MNR, MNDC, MNSD, FF

### Introduction

This hearing was convened by way of conference call in response to the landlords application for a Monetary Order for damage to the unit, site or property; for a Monetary Order for unpaid rent; for an Order permitting the landlord to keep all or part of the tenants security 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 March 14, 2013. 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's agents appeared, gave sworn testimony, were 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 damage to the unit?
- Is the landlord entitled to a Monetary Order to recover unpaid rent?

- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the landlord entitled to keep the security deposit?

### Background and Evidence

The landlord's agents testify that this tenancy started on March 05, 2012 for a fixed term lease which was not due to expire until February 28, 2013. Rent for this unit was \$1,120.00 per month plus \$45.00 per month for parking. Rent and parking fees were due on the first day of each month in advance. The tenants paid a security deposit of \$560.00 on March 02, 2012. The tenants and landlords agent took part in a move in and a move out inspection of the unit and a copy of the inspection report has been provided in evidence. The tenants provided a forwarding address on the inspection report on January 14, 2013.

The landlord's agent testifies that the tenants failed to pay rent for January. The check provided for rent and parking was not honored at the bank due to insufficient funds. The tenants were served a 10 Day Notice in January due to this and moved out of the unit on January 09, 2013 in accordance with that Notice. The tenants returned to the unit on January 14, 2013 to attend the move out inspection with the landlord's agent and it was then identified that the tenants had not cleaned the unit, the carpets and blinds were left in a dirty condition and the interior windows and the exterior patio window had not been cleaned. The landlord's agent testify that the unit was re-rented for January 19, 2013 therefore the landlord seeks to recover a loss of rent and parking from January 01 to January 19, 2013 to the amount of \$665.32. The landlord also seeks to recover a late fee of \$20.00 as agreed in the tenancy agreement.

The landlord seeks to recover the following amounts for cleaning the unit:

Carpet cleaning - \$80.00

Blind and window cleaning - \$55.00

General cleaning - \$165.00.

The landlord has provided a copy of the inspection reports and invoices for this work in evidence. The landlord's agent testifies that the tenants signed an agreement sheet giving the landlord written permission to keep the security deposit against these costs.

The landlord's agent testifies that the tenancy agreement has a clause that notifies the tenants that a fee of \$300.00 will be claimed for liquidated damages if the tenancy is ended before the lease expires. The landlord therefore seeks to recover this fee from the tenants as the tenancy ended due to the 10 Day Notice. The landlord's agent testifies that at the start of the tenancy the original tenant was given a move in bonus of \$150.00. There is a separate agreement in place which states this bonus must be repaid to the landlord if the tenancy is ended before the lease expires. The landlord therefore also seeks to recover the sum of \$150.00 from the tenants. The landlord has provided copies of all agreements in documentary evidence.

### Analysis

The tenants 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 tenants, I have carefully considered the landlords documentary evidence and sworn testimony before me. With regard to the landlords claim to recover unpaid rent and parking for January, 2013; I refer the parties to Section 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.*

I therefore find the landlord has established that the tenants failed to pay rent and parking for January, 2013 and the landlords are therefore entitled to recover this rent and parking up to January 19, 2013 when the unit was re-rented to an amount of **\$665.32.**

With regard to the landlords claim for a late fee of \$20.00; I have reviewed the tenancy agreement and find there is a clause contained within that agreement that notifies the tenants that a late fee of \$20.00 will be charged in any month that rent is late. I therefore uphold the landlords claim for **\$20.00**.

With regard to the landlords claim for cleaning; I am satisfied with the evidence before me that the tenants failed to leave the rental unit in a clean condition. The landlord's evidence shows that the carpets were left dirty, the blinds and windows were left unclean and the unit had not been cleaned by the tenants. I therefore find the landlord has established a claim to recover the sums of **\$80.00** for carpet cleaning, **\$55.00** for blinds and window cleaning and **\$165.00** for general cleaning.

With regard to the landlords claim to recover liquidated damages; a landlord is entitled to recover an amount that is a genuine pre-estimate of costs incurred by a landlord in liquidated damages if a tenant ended a tenancy before the end of the lease. I therefore find the landlord is entitled to recover the sum of **\$300.00** from the tenants as I consider this to be a fair pre-estimate of costs to re-rent the unit.

With regard to the landlord claim to recover the move in bonus of \$150.00; I have reviewed the agreement regarding this bonus and the agreement signed by the parties does inform the tenants that the landlord will recover this bonus paid to the tenant at the start of the tenancy if the tenants end the tenancy early. As this tenancy was ended two months early I find the landlord has established a claim to recover the **\$150.00** move in bonus.

With regard to the landlords claim seeking an Order to keep the security deposit; I find from the evidence presented that the tenants have agreed in writing that the landlord may keep the security deposit. I am therefore not required to make an Order concerning this however I will deduct the amount of the security deposit from the landlords monetary claim.

As the landlord has been successful with their claim I find the landlord is also 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 for the following amount pursuant to s. 67 and 72(1) of the *Act*:

Unpaid rent, parking and late fee	\$685.32
Cleaning	\$300.00
Liquidated damages	\$300.00
Recovery of move in bonus	\$150.00
Filing fee	\$50.00
<b>Subtotal</b>	<b>\$1485.32</b>
Less security deposit	\$560.00
<b>Total amount due to the landlord</b>	<b>\$925.32</b>

#### Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$925.32**. The order must be served on the respondents and is enforceable 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 17, 2013

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Residential Tenancy Branch

