

Residential Tenancies Tribunal

Application 2024-0451-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 8-October-2024 at 2:01 pm.
2. The applicant, [REDACTED], hereinafter referred to as the landlord, attended via teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as the tenants, did not attend.

Preliminary Matters

4. The tenants were not present or represented at the hearing and I was unable to reach them by telephone at the start of the hearing. This Tribunal's policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date and, where the respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent's absence so long as they have been properly served. The landlord submitted an affidavit (LL#1) with their application stating that they had served the tenants with notice of the hearing both electronically and by prepaid registered mail electronically on 10-September-2024 at 2:30 pm. The appropriate supporting document were also provided (LL#2-3). Checking the tracking number showed that the documents were received. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.

Issues before the Tribunal

5. Should the landlord's claim for unpaid rent be granted?
6. Should the landlord's claim for damages be granted?
7. What is the proper disposition of the security deposit?

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act*, 2018 (the *Act*).

Issue 1: Unpaid Rent

9. The landlord testified that the tenants owe \$1500.00 in unpaid rent, representing the full monthly rent of \$1500.00/month for April 2024, which she says was the last month of the tenancy. A rent ledger was provided in support of this claim (LL#4).
10. I accept the landlord's uncontradicted testimony. The landlord's claim for unpaid rent succeeds in the amount of \$1500.

Issue 2: Damages

11. The landlord claims 234.86 in damages, representing \$87.43 in materials and \$147.43 in labour. She testified that this is for the repair of holes in the wall as well as cleaning, as they say the tenants left the premises in an unclean state. \$100.00 of labour represents the cost of the cleaning and the remaining \$47.43 was for the labour in repairing the holes.
12. A landlord's claims for damages are covered by the Residential Tenancies Program Policy and Procedure Guide policy 09-003. In accordance with policy, to succeed in a claim of damages, a landlord must provide sufficient evidence to establish that their property was damaged, the extent of the damage, that the damage was caused by the tenant, and the cost of repair. In addition, this should include documentary evidence when reasonably possible, including photos, receipts, quotes, estimates, invoices, etc.
13. In the present case, the landlord provided no documentary evidence of the damage, nor of the cost of repairs. She was also unable to testify to the amount of time spent cleaning and called no witnesses who had direct knowledge of the state of the premises.
14. I find I have insufficient evidence to make a finding, and the landlord's claim therefore fails.

Issue 3: Security Deposit

15. The landlord is owed moneys and is therefore entitled to apply the security deposit against the amount owed. In the present case, the security deposit was \$750.00.
16. S. 14(7) of the *Act* states that a landlord shall credit interest to the tenant on the full amount or value of the security deposit, at the rate prescribed by the regulations, during the time the security deposit is held by the landlord. The regulations prescribed an interest rate of 0% for the relevant time period before 2024 and a simple cumulative interest rate of 1% for the year of 2024. Calculated to the date of the hearing, this results in a total interest of \$5.80.

Decision

17. The landlord's claim for unpaid rent succeeds in the amount of \$1500.00.
18. The landlord's claim for damages fails.
19. The landlord may apply the security deposit and interest valued at \$755.80 against moneys owed.
20. The landlord was successful in their claim and may therefore have their reasonable hearing expenses covered. In this case they claim the \$20.00 application fee as well as \$26.19 for the cost of registered mail for which a receipt was provided (LL#3). The landlord testified that she also incurred a fee of \$20.00 to hire a notary public but in the absence of a receipt I decline to grant this cost.

Summary of Decision

21. The tenant shall pay to the landlord \$790.39 as follows:

Unpaid Rent.....	\$1500.00
Hearing expenses.....	\$46.19
Less Security Deposit.....	-\$755.80)
Total.....	\$790.39

30-October-2024

Date


Seren Cahill
Residential Tenancies Office