

Residential Tenancies Tribunal

Application 2024-0838-NL

Application 2024-1023-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:52 p.m. on 26-November-2024.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants” attended by teleconference.
3. The respondent and counter applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
4. The application was amended to change the applicant’s name and address from [REDACTED] to [REDACTED] as per the request of the landlord ([REDACTED]) and as agreed to by the tenants.

Preliminary Matters

5. The tenants submitted an affidavit with their application stating that they had served the landlord with the notice of hearing electronically by email to; [REDACTED] on 15-October-2024 (TT#1). The landlord acknowledged that the document was served to [REDACTED], however he confirmed receipt of the document and wished to proceed. The landlord countered the claim and submitted an affidavit stating that he served one of the tenants with the notice of hearing electronically by email to; [REDACTED] on 20-November-2024 (LL#1). The document was not served in accordance with the *Act*, however the tenants waived service and wished to proceed. In accordance with the *Residential Tenancies Act, 2018*, this is acceptable.
6. There was a written month-to-month rental agreement that commenced on 30-April-2022. The property was sold in October 2022 at which time [REDACTED] took over the tenancy as an agent for the new landlord. The tenants vacated the premises on 31-May-2024. Rent was \$950.00 per month, due on the first day of each month. A security deposit of \$350.00 was paid to the original landlord on 30-April-2022 and is in the current landlord’s possession.

Issues before the Tribunal

7. The tenants are seeking:
 - Refund of security deposit \$350.00

8. The landlord is seeking:
- Compensation for damages \$230.00
 - Security deposit applied against monies owed.

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
10. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 14; Security Deposit. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual*, Section 9-3: Claims for damage to rental premises.

Item # 1: Compensation for damages \$230.00

Relevant Submission

11. The landlord testified that the unit needed to be cleaned after the tenants vacated and he is seeking \$230.00 to cover the cost of cleaning. The landlord submitted a copy of the cleaning invoice from [REDACTED] to support the claim (LL#2). See copy of invoice below:

Bill

[REDACTED]

Date	2024-07-10	Vendor	[REDACTED]
Bill due date	2024-07-10		
Reference no.			
Memo			
Property - unit	Account	Description	Amount
[REDACTED]	Property Cleaning Fee (Vendor)	Moveout cleaning	\$200.00
[REDACTED]	MPM Taxes	HST	\$30.00
Total			\$230.00

Landlord's Position

12. The landlord stated that he was not involved in the cleaning process and testified that [REDACTED] who were employed by him to care for the property were responsible for cleaning the unit. The landlord is seeking to be reimbursed for the cost of the cleaning.

Tenant's Position

13. The tenants did not dispute that there was some cleaning required after they vacated the unit, however they disputed that it would cost \$230.00 to complete the work. The tenant's testified that they did most of the cleaning and suggested that it would cost approximately \$80.00 to complete the remaining of the cleaning required.

Analysis

14. In accordance with *Residential Tenancies policy 9-3*, the applicant is required to show:

- *That the damage exists;*
- *That the respondents are responsible for the damage, through a willful or negligent act;*
- *The value to repair or replace the damaged item(s)*

15. I accept that it cost the landlord \$230.00 to have the unit cleaned once the tenants vacated, however the landlord failed to show the cleanliness of the unit after the tenants vacated compared to the cleanliness of the unit when they took possession. The landlord was not involved in the process and was unable to identify what areas of the unit required cleaning. The tenants testified that they cleaned the unit and admitted that there was a need for a final touch up. I asked the tenants what they thought would be a fair and equitable amount to charge them to have the unit cleaned properly after they vacated, and they responded that the work would not have cost more than \$80.00.

16. In accordance with Section 9-3 of the Policy as stated above, I find that although the landlord could show the cost to clean the unit, he failed to show what needed to be cleaned and he failed to show that cleanliness of the unit at the end of the tenancy compared to the commencement of the tenancy. I find that when it comes to cleaning, people have different perceptions of what clean means to them. I am unaware of what areas of the unit that were cleaned by the cleaner; that is, I am unaware if she washed floors and bathrooms or washed down walls and cleaned out heaters. I am unable to determine if the cleaning was a direct result of the actions of the tenants or if it was a deep clean of the unit which is usually conducted by landlords as a result of *normal wear and tear* within the unit. For those reasons, I accept the tenants offer to reimburse the landlord \$80.00 for the cost of cleaning, and as such, I find that the tenants are responsible for the cost to clean the unit in the amount of \$80.00.

Decision

17. The landlord's claim for *compensation for damages* succeeds in the amount of \$80.00.

Issue # 2: Refund of Security Deposit \$350.00 **Security Deposit applied against monies owed**

Analysis

18. Section 14 of the *Residential Tenancies Act, 2018* deals with security deposits, and the relevant subsections state:

Security deposit

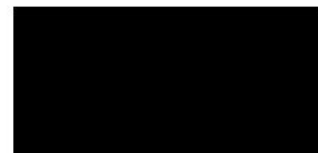
14. (8) A security deposit is not an asset of the landlord but is held by the landlord in trust and may be used, retained or disbursed only as provided in this section.
 - (9) Not later than 10 days after the tenant vacates the residential premises, the landlord shall return the security deposit to the tenant unless the landlord has a claim for all or part of the security deposit.
 - (10) Where a landlord believes he or she has a claim for all or part of the security deposit,
 - (a) the landlord and tenant may enter into a written agreement on the disposition of the security deposit; or
 - (b) the landlord or the tenant may apply to the director under section 42 to determine the disposition of the security deposit.
 - (11) Where a tenant makes an application under paragraph (10)(b), the landlord has 10 days from the date the landlord is served with a copy of the tenant's application to make an application to the director under paragraph (10)(b).
 - (12) A landlord who does not make an application in accordance with subsection (11) shall return the security deposit to the tenant.
19. The landlord's claim for losses has been successful as per paragraph 17 above, and as such the security deposit shall be applied against monies owed. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to a tenant for the entire period that the landlord has had the security deposit. The interest is calculated as simple interest and is not compounded. The annual interest for 2022 - 2023 was 0% and is currently 1% for 2024.

Decision

20. The landlord's claim to have the *security deposit applied against monies owed* succeeds in the amount of \$80.00.
21. The tenant's claim for a *refund of security deposit plus interest* succeeds in the amount of \$273.17.

November 27, 2024

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office