

Residential Tenancies Tribunal

Application 2024-0912-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 9:01 a.m. on 5-November-2024.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant", attended by teleconference.

Preliminary Matters

4. The landlord submitted affidavit with his application stating that he had served the tenant with the notice of the hearing electronically via email to [REDACTED] on 17-Octoberber-2024 (LL#1). The tenant confirmed receiving notice of the hearing on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service, and we proceeded with the hearing.
5. There was term rental agreement which commenced on 27-February-2022, renewed in March 2023 for another year and renewed again in March 2024 for 6 months. The tenant vacated the unit on 15-June and removed her possessions on 22-June-2024. Rent was \$1150.00 per month due on the first of each month. A security deposit of \$750.00 was collected in February-2022 and was returned to the tenant.
6. The validity of termination notice was already determined in decision 2024-0506-NL and as such does not require further discussion in this hearing.

Issues before the Tribunal

7. The landlord is seeking:
 - Rent paid \$2300.00;
 - Damages \$356.50;
 - Hearing expenses \$20.00;

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*.
9. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Policy*: Section 9-3: Compensation for Damages to Rental Premises, Section 12-1: Recovery of Costs.

Issue # 1: Rent paid \$2300.00.

Landlord's Position

10. The landlord testified that the tenant was expected to vacate the rental unit by 31-August-2024, as stipulated in the fixed-term rental agreement. The landlord claims that rent remains outstanding in the amount of \$2300.00, covering the months of July and August, and is seeking payment for this period.

Tenant's Position

11. The tenant disputed the claim for outstanding rent, asserting that she vacated the rental unit on 15-June-2024 and paid the full rent for that month.

Analysis

12. As the tenant disputed that she is responsible for the outstanding rent, I inquired with the landlord about when he re-rented apartment, and he stated that the new tenancy began in September. When asked when he advertised the unit, the landlord stated that he only began advertising it at the end of August. I further asked why he did not seek a new tenant sooner, and he explained that, he was on the vacation and as the rental agreement was fixed term, he believed the tenant was responsible for rent payments through the end of August, deeming her June termination notice invalid.
13. While I accept the landlord's testimony regarding the fixed-term nature of the rental agreement, I find that the landlord did not make sufficient efforts to mitigate his losses. Given that the tenant vacated on 15-June and took her possessions on 22-June, the landlord could have thought a new tenants for July and August. Therefore, I find that the tenant is not responsible for the claimed rent of \$2300.00.

Decision

14. The landlord's claim for rent does not succeed.

Issue # 2: Damages \$356.50.

Relevant submission:

15. The landlord submitted a damage ledger seeking a total \$356.50, as follows:

1	Cleaning Fridge	50
2	Cleaning Stove	30
3	Fridge broken shelf	60
4	Carpet cleaning	100
5	Cleaning the apartment	70
6	tax on the total	46.5

Landlord's Position:

16. The landlord stated that the tenant left the rental unit in unclean condition, and he spent around \$350.00 for the cleaning services as follows:

#1 Cleaning fridge (\$50.00) – The landlord claims that the fridge was left uncleaned by the tenant. The landlord submitted a photograph of the fridge to support his claim (LL#2). The landlord is seeking \$50.00 for the cleaning services.

#2 Cleaning stove (\$30.00) - The landlord claims that the stove was left uncleaned by the tenant. The landlord submitted a photograph of the condition of the stove to support his claim (LL#3). The landlord is seeking \$30.00 for the cleaning services.

#3 Carpet cleaning (\$100.00) – The landlord claims that the carpet was left uncleaned and is seeking \$100.00 to cover professional carpet cleaning services.

#4 Cleaning the apartment (\$70.00) – The landlord stated that the apartment was left uncleaned and required vacuuming, mopping and general cleaning. The landlord is seeking \$70.00 for these services.

#5 Fridge broken shelf (\$60.00) - The landlord stated that a shelf in the fridge was broken during the tenancy and is seeking \$60.00 for the replacement.

Tenant's Position:

17. #1, #2, #3, #4 Cleaning - The tenant disputed the claim for cleaning costs, asserting that the apartment was left mopped and that the carpet was vacuumed and did not require further cleaning. The tenant testified that she wanted to finish the cleaning and she requested additional time on both 15-June and on 22-June to complete the cleaning, but the landlord denied the requests. The tenant stated that on 22-June, when she came to pick up her possessions, the locks were changed by the landlord, even though the June rent was paid in full amount.

#5 Fridge broken shelf (\$60.00) - The tenant did not dispute that shelf in the fridge broke during the tenancy but argues that it was an incident occurrence rather than a result of negligence. Given the fridge's age of approximately 5 years, she believes she should not be held responsible for the cost of replacement.

Analysis

18. 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)*

19. After reviewing the testimony of both the landlord's and the tenant's, I have analyzed the claims as follows:

#1, #2, #3, #4 - Cleaning – As the tenant disputed that she is responsible for the payment for the cleaning service, I asked the landlord whether the tenant had requested to finish

cleaning after vacating the unit, and he confirmed that she did make this request. When I asked why he denied her requests, the landlord explained that he had received advice not to allow the tenant back to the premises after her lease termination. Consequently, the landlord stated that he changed the locks half an hour before the tenant arrived to collect her remaining belongings on 22-June. I accept that the fridge and stove needed to be cleaned according to the photographs, however, given that the tenant sought to complete the cleaning and the landlord prevented her from doing so, I find that the tenant made reasonable efforts to address any remaining cleaning tasks. Since the tenant was willing to complete the cleaning herself, I find that she should not be held responsible for the associated cleaning costs.

#5 Fridge broken shelf (\$60.00) – I accept the tenant's testimony, that the damage to the fridge shelf occurred during the tenancy and as such I find that the tenant is responsible for replacing the broken shelf. I inquired the landlord how he came up with amount of \$60.00 and he confirmed that he based this amount on the price listed on amazon website. My research on retail platform (www.amazon.ca) indicates that \$30.00 is reasonable cost for a replacement plastic fridge shelf, and therefore, I find amount of \$30.00 to be appropriate. The tenant is responsible for the cost of fridge shelf replacement in the amount of \$30.00.

Decision

20. The landlord's claim for damages partially succeeds in the amount of \$30.00.

Issue # 3: Hearing expenses \$20.00

Analysis

21. Section 12-1 of the *Residential Tenancies Policy* states that in general, claimable costs may include the filing fee. The landlords paid \$20.00 for the application and are seeking reimbursement. As the landlord's claim has been partially successful, the tenant shall pay the hearing expenses.

Decision

22. The landlord's claim for hearing expenses succeeds.

Summary of Decision

23. The tenant shall pay the landlord \$50.00 as follows:

Damages	\$30.00
Hearing expenses	\$20.00
Total.....	\$50.00

November 7, 2024

Date

Oksana Tkachuk, Adjudicator
Residential Tenancies Office