

Residential Tenancies Tribunal

Application 2024-0962-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:52 p.m. on 9-December-2024.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.
3. The respondent, [REDACTED], represented by [REDACTED], hereinafter referred to as "the tenant" attended by teleconference.

Preliminary Matters

4. The landlord testified that he served the respondent electronically by email on 29-November-2024. The representative for the respondent confirmed receipt of the document on that date. This is not proper service, however the representative for the respondent wished to waive service and proceed with the hearing. In accordance with the *Residential Tenancies Act, 2018* this is acceptable.
5. There was a written rental agreement which commenced on 1-January-2024, however the respondent resided in the unit for approximately 40 plus years. The property was sold to the current landlord in late December 2023. The tenant passed away on 1-June-2024. Rent was \$950.00 per month, due on the first day of each month. A security deposit of \$675.00 was paid to the current landlord and has been dealt with in a previous hearing (2024-0649-NL).

Issues before the Tribunal

6. The landlord is seeking:
 - Compensation paid for damages \$2000.00
 - Utilities paid \$329.66
 - Other (cleaning) \$520.00
 - Hearing expenses \$20.00

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in Sections 46 and 47 of the *Residential Tenancies Act, 2018*.
8. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Policy Manual*: Section 9-3: Claims for damages to rented premises and Section 9-5: Depreciation and life expectancy of property.

Issue # 1: Compensation paid for Damages \$2000.00

Landlord's Position

9. The landlord testified that the unit needed to be painted with some plaster work due to thumbtack holes in the walls. The landlord stated that his contractor who was working on other jobs for him at the time spent 4 days at the unit completing the work and the contractor charged \$500.00 per day for a total cost of \$2000.00. The landlord submitted a copy of an invoice from the contractor to support the claim (LL#1). The landlord also submitted photographs of the walls to support the claim (LL#2).

Respondent's Position

10. The representative for the estate of the late tenant disputed that the estate should be responsible for any costs associated with paint or plaster work to the unit. The representative testified that her late sister was in the unit for over 40 years and the walls had not been painted in over 20 years. The representative stated that there wasn't any damage to the walls other than normal wear and tear over time.

Analysis

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

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

12. I asked the landlord if he knew when the last time was that the apartment was painted and he responded that he did not know. I asked the representative if she knew the last time the unit was painted, and she responded that it has been 20 plus years, and she stated that she often asked her late sister why she has not requested the unit to be painted and she stated that her late sister did not want to make any requests that may lead to a rent increase. I accept the representative's testimony that the unit had not been painted in over 20 years. Based on the photographs entered into evidence by the landlord and in accordance with Section 9-3 of the *Policy* as stated above, I accept that there wasn't any damage to the walls outside of normal wear and tear from hanging pictures / artwork on the walls. Also, in accordance with Section 9-5 of the *Policy*: Depreciation and life expectancy of property, research shows that the life span of interior paint is 15 years. As the unit has not been painted in over 20 years, I find that the paint has surpassed its lifecycle and for that reason, I find that the estate is not responsible for the cost to paint and plaster the walls of the unit.

Decision

13. The landlord's claim for *compensation for damages* does not succeed.

Issue # 2: Utilities paid \$329.66

Landlord's Position

14. The landlord testified that the late tenant was responsible for 40% of the household utilities and he stated that there is an outstanding amount of \$329.66 owing to him and he submitted a copy of the utility bills to support the claim (LL#3).

Respondent's Position

15. The representative for the estate of the respondent did not dispute the landlord's claim for utilities owed in the amount of \$329.66.

Analysis

16. As the representative for the estate did not dispute the landlord's claim for outstanding utilities, I find that the estate is responsible for utilities paid in the amount of \$329.66.

Decision

17. The landlord's claim for *utilities paid* succeeds in the amount of \$329.66.

Issue # 3: Other (cleaning) \$520.00

Landlord's Position

18. The landlord testified that the unit required a deep cleaning which involved the removal of stains on the flooring, mold and mildew in the bathroom area and the cleaning of windows. The landlord testified that it took him 20-25 hours of self-labor to complete the work and he is seeking \$520.00 for his time. The landlord submitted photographs of the unit to support the claim (LL#4).

Respondent's Position

19. The representative for the respondent disputed that the estate should reimburse the landlord for his time to clean the unit. The representative testified that she was more than willing to do the cleaning and when she arrived at the unit, she asked the landlord what he wanted her to do, and she testified that the landlord told her that cleaning the oven and the fridge would be sufficient.

Analysis

20. I accept the representative's testimony that she was willing to clean the unit but was advised by the landlord that cleaning the oven and fridge would be sufficient. The landlord did not dispute that he entered into that verbal agreement with the representative and for that reason, I find that the estate is not responsible for the cost to clean the unit.

Decision

21. The landlord's claim for *Other (cleaning)* does not succeed.

Issue # 4: Hearing expenses \$20.00

22. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and is seeking to be reimbursed for the cost. The landlord submitted a copy of the receipt to support the claim (LL#5). In accordance with Section 12-1 of the *Residential Tenancies Policy*, claimable costs may include the filing fee. As the landlord's claim for losses has been partially successful, I find that the estate is responsible for the hearing expenses.

Decision

23. The landlord's claim for *hearing expenses* succeeds in the amount of \$20.00.

Summary of Decision

24. The estate of the late tenant shall pay the landlord \$349.66 as follows:

Compensation for damages	0.00
Utilities paid	329.66
Other (cleaning)	0.00
Hearing expenses	20.00
 Total	\$349.66

December 11, 2024

Date


Pamela Pennell, Adjudicator
Residential Tenancies Office