

Residential Tenancies Tribunal

Application 2024-1018-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:21 a.m. on 5-February-2025.
2. The applicant, [REDACTED] represented by [REDACTED] and [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 tenant didn't initially call into the hearing and joined the conference shortly after the hearing was called. The tenant responded to a telephone message from *Residential Tenancies Office* advising him of the hearing with the toll-free number and conference ID. The tenant was clear in that he was not aware of the hearing or any claims against him by the landlord. The landlord submitted an affidavit with their application stating that they had served the tenant with the notice of hearing electronically by email to; [REDACTED] on 24-January-2025 (LL#1). The tenant disputed receiving the document and I allowed him to search through his emails at which time he found the email containing the document in his spam mail. The tenant confirmed receipt of the document without having ever viewed it. In accordance with the *Residential Tenancies Act, 2018* this is good service. I afforded the tenant some time to familiarize himself with the claims against him before proceeding.
5. There was a written month-to-month rental agreement which commenced on 1-December-2021. The landlord stated that the tenant vacated the unit on 15-October-2024. The tenant disputed that claim and stated that he vacated the unit in April 2022 and his roommate at that time remained in the unit. Rent was \$1075.00 per month, due on the first day of each month. A security deposit of \$450.00 was paid in November 2021 and is in the landlord's possession.

Issues before the Tribunal

6. The landlord is seeking:

- Rent paid \$460.66
- Compensation paid for damages \$2436.70
- Other \$577.34
- Hearing expenses \$20.00
- Security deposit applied against monies owed \$450.00

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 is the following section of the *Residential Tenancies Act, 2018*: Section 14: Security deposit. 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 12-1: Recovery of costs.

Issue # 1: Rent Paid \$460.66

Landlord's Positions

9. The landlord's representative testified that the tenant abandoned the unit on 15-October-2024 without paying rent for that month and she stated that they are seeking a pro-rated amount of rent to be paid for the period of October 1-15 in the amount of \$460.66.

Tenant's Position

10. The tenant disputed that he is responsible for any rent as he did not reside at the unit at that time. The tenant testified that he vacated the unit in April 2022 at which time his roommate as per the rental agreement (LL#2) was still residing there.

Analysis

11. I accept the tenant's testimony that he has not resided at the residence since April 2022 and I asked the landlord's representative if they were aware that the tenant had vacated the unit at that time and she responded that they were never informed of his departure and according to their records he was still residing at the premises. The landlord's representative stated that they did not have any reason to believe that anyone other than the tenant was residing at the residence up to October 2024. I asked the landlord when the other tenant as listed on the rental agreement vacated the unit and she responded that he requested to be removed from the lease in November 2022 at which time they understood that the tenant was the sole person residing at the premises.
12. I asked the tenant if he had informed the landlord that he was leaving the unit and wished to be removed from the lease and he responded that he did not, however he stated that he was under the impression that his roommate at the time had informed the landlord of his departure and advised them that a new tenant was taking over his room in the unit. The tenant stated that he had no reason to believe that the landlord was not aware of the changes to the residential tenancy agreement.
13. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid under a rental agreement by a tenant(s) during the use or occupancy of a residential premises. Changes to a residential tenancy agreement cannot be one sided and if a tenant plans to vacate a unit, he/she is required to give the landlord a proper termination

notice or advise the landlord that they wish to either sublet / assign the unit to another tenant(s). For those reasons, I find that the tenant was in a residential tenancy relationship with the landlord up to 15-October-2024. I find that the tenant is responsible for the landlord's loss of rental income for the period of October 1-15, 2024 in the amount of \$460.66 as sought by the landlord.

Decision

14. The landlord's claim for *rent paid* succeeds in the amount of \$460.66.

Issue # 2: Compensation for damages \$2436.70

Relevant Submission

15. The landlord's representative testified that there were damages / losses to the rental unit in the amount of \$2436.70 and they submitted a damages ledger to support the claim (LL#3). See breakdown of damages ledger below:

Damages Ledger 2024-1018-NL		
Damages / losses	Amount	Total
Pest Control	\$776.25	\$776.25
Contents removal	\$488.75	\$1,265.00
Cleaning of unit	\$862.50	\$2,127.50
Counter top	\$309.20	\$2,436.70

Landlord's and Tenant's Positions

16. The landlord's and the tenant's position on each item as listed above is as follows:

Item # 1: Pest control (\$776.25) – The landlord's representative stated that the unit was infested with bed bugs and needed to be treated professionally. The landlord's representative stated that they are seeking \$776.25 to cover the cost to inspect / treat for bedbugs and to cover the cost for preventative treatment and they submitted a copy of an invoice to support the claim (LL#4). The tenant disputed that he is responsible for any damages / losses to the unit as he has not resided there since April 2022.

Item # 2: Contents removal (\$488.25) – The landlord's representative testified that the contents within the unit needed to be removed carefully and items like mattresses had to be wrapped due to the bed bug situation. The landlord's representative stated that they are seeking \$488.25 to cover the cost to remove and dispose of the contents inside the unit and they submitted a copy of an invoice from [REDACTED] to support the claim (LL#5). The tenant disputed that he is responsible for any damages / losses to the unit as he has not resided there since April 2022.

Item # 3: Cleaning of unit (\$862.50) – The landlord's representative testified that the unit and deck area of the unit needed to be cleaned. The landlord's representative stated that they are seeking \$862.50 to cover the cost of cleaning and they submitted a copy of photographs to support the claim (LL#6) and a copy of an invoice from [REDACTED] to support the claim (LL#7). The tenant disputed that he is responsible for any damages / losses to the unit as he has not resided there since April 2022.

Item # 4: Countertop (\$309.20) – The landlord's representative testified that the countertop was damaged and had to be replaced. The landlord's representative stated

that they are seeking \$309.20 to cover the cost to replace the countertop and they submitted a copy of an invoice from *Kent* to support the claim (LL#8).

Analysis

17. 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)*

18. Based on the testimony of the landlord's representative and the exhibits entered into evidence, each item is analyzed as follows:

Item # 1: Pest control (\$776.25) – I do not accept the tenant's position that he should not be responsible for the cost of damages / losses to the unit, and I find that he was in a residential tenancy relationship with the landlord up to the end of the tenancy in October 2024. Based on the landlord's testimony that the unit was infested with bed bugs and based on the invoice entered into evidence showing the cost to treat the unit, I find that the tenant is responsible for the cost to treat the bed bug problem and for the preventative treatment in the amount of \$776.25.

Item # 2: Cleaning of contents (\$488.25) - I do not accept the tenant's position that he should not be responsible for the cost of damages / losses as stated in item # 1 above. Based on the landlord's testimony that the contents within the unit had to be handled carefully before removal and disposal and based on the invoice from [REDACTED], I find that the tenant is responsible for the cost to of removal and disposal of the contents in the amount of \$488.25.

Item # 3: Cleaning of unit (\$862.50) – I do not accept the tenant's position that he should not be responsible for the cost of damages / losses as stated in item # 1 above. Based on the photographs entered into evidence and the invoice from [REDACTED], I find that the tenant is responsible for the cost to clean the unit in the amount of \$862.50.

Item # 4: Countertop (\$309.20) – In accordance with Section 9-3 of the *Act* as stated above, I find that although the landlord was able to show the cost to replace the countertop, they failed to show the extent of the damage to the countertop and they failed to show photographs of the countertop prior to the tenancy and as such the landlord failed to show that the tenant was negligent in causing the damage. For those reasons, I find that the tenant is not responsible for the cost to replace the countertop.

Decision

19. The landlord's claim for *compensation for damages* succeeds in the amount of \$2127.00.

Issue # 3: Other \$577.34

Landlord's and tenant's positions

20. The landlord's representative testified that the tenant abandoned the unit on 15-October-2024 and she stated that he did not return his keys to the apartment building and to the mailbox. The landlord's representative stated that they are seeking \$75.00 for the cost to replace the keys as per *Schedule B* of the rental agreement (LL#9). The landlord's representative also stated that they are seeking administrative costs of 20% of

any charges billed to the tenant as per *Schedule B* of the rental agreement (LL#9) in the amount of \$502.34. The tenant disputed that he is responsible for returning keys or any administrative costs as he has not resided in the unit since April 2022.

Analysis

21. I accept that the tenant no longer had any keys to the unit as he has not resided there since 2022 and as such was unable to return them, however it was determined in paragraph 13 above that the tenant is responsible for damages / losses to the unit and as such, I find that the tenant is responsible for the cost to replace the missing keys in the amount of \$75.00 and I also find that the tenant is responsible for the 20% administrative costs in the amount of \$440.40 for a total of \$515.40.

Decision

22. The landlord's claim for *Other* succeeds in the amount of \$515.40.

Issue # 4: Hearing Expenses \$20.00

23. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and submitted a copy of the receipt to support the claim (LL#10). In accordance with Section 12-1 of the *Residential Tenancies Policy Manuel*, filing fees can be claimable costs. As the landlord's claim for losses has been successful, I find that the tenant is responsible for the hearing expenses.

Decision

24. The landlord's claim for hearing expenses success in the amount of \$20.00.

Issue # 5: Security deposit applied against monies owed \$450.00

Analysis

25. 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.

26. The landlord's claim for losses has been successful as per paragraphs 14, 19, 22 and 24 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 2021-2023 was 0% and is currently 1% for 2024 and 2025.

Decision

27. The landlord's claim to have the security deposit applied against monies owed succeeds.

Summary of Decision

28. The tenant shall pay the landlord \$2668.10 as follows:

Rent paid	\$460.66
Compensation for damages	2127.00
Other	515.40
Hearing expenses	20.00
Less: security deposit & interest	454.96
Total	\$2668.10

February 21, 2025

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office