

Residential Tenancies Tribunal

Application 2024-1036-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 2:35 p.m. on 5-February-2025.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondents, [REDACTED] (tenant 1) and [REDACTED] (tenant 2), hereinafter referred to as “the tenants” did not attend.
4. [REDACTED] was removed from the application as a respondent as he was not a tenant and never occupied the unit.

Preliminary Matters

5. 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 hearing 10 clear days prior to the hearing date and, where the respondents fail 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 with her application stating that she had served tenant 1 with the notice of hearing by pre-paid registered mail ([REDACTED]) on 20-January-2025 (LL#1) to an address that had previously been provided to the landlord by the tenant (LL#2). Canada Post tracking indicates that the mail was retrieved on 10-February-2025 however pre-paid registered mail is considered served 5 days after it is sent. In accordance with the *Residential Tenancies Act, 2018* this is good service. The landlord submitted an affidavit with her application stating that she had served tenant 2 with the notice of hearing electronically by text message to [REDACTED] on 24-January-2025 (LL#3). The landlord testified that both tenants shared the one cell phone, and she submitted proof of cell phone number (LL#4). 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.

6. There was a verbal month-to-month rental agreement that commenced on 8-October-2023 whereby the tenants rented a room in a single dwelling with the landlord who also resided at the residential premises. The tenants vacated the unit on 30-October-2023. Rent was \$1150.00 per month due on the first day of each month. A security deposit was never paid.

Issues before the Tribunal

7. The landlord is seeking:
- Rent paid \$1700.00
 - Compensation paid for inconveniences \$4370.00
 - Compensation paid for damages \$1725.49
 - Possessions returned \$1800.00
 - Hearing expenses \$250.00

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 is the following section of the *Residential Tenancies Act, 2018*: Section 2: Definitions. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Policy Manual*: Section 9-3: Compensation for damages to rented premises, Section 9-5: Depreciation and life expectancy of property, Section 12-1; Recovery of fees and Section 47: Order of director.

Issue # 1: Rent paid \$1700.00

Relevant Submission

10. The landlord testified that rent is outstanding in the amount of \$1700.00 for the months of November and December 2023 and she submitted a copy of a rental ledger to support the claim (LL#5). See breakdown of rental ledger below:

Date	Transaction Description	Amount Due	Amount Paid	Balance
Examples showing ledger entry				
Oct. 2023	October 2023	\$1100.00	\$1100.00	\$0.00
Nov. 2023	Nov 2023	\$850.00	\$0.00	\$850.00
Dec. 2023	Dec. 2023	\$850.00	\$0.00	\$850.00

Landlord's Position

11. The landlord's testimony differed from the rental ledger above and she testified that the tenants agreed to rent the unit commencing 8-October at a pro-rated amount of \$1100.00 for that month. The landlord stated that tenant 1 was only scheduled to stay in the Country until the end of November and rent was expected to be paid in full at \$1150.00 for that month. The landlord testified that rent would then decrease to \$550.00 for the month of November for tenant 2.
12. The landlord testified that the tenants vacated the unit earlier than expected due to an altercation on 30-October-2023 whereby the *Police* had to be called, and she is seeking

rent to be paid in full up to the end of the trial period which was scheduled to end on 31-December-2023 in the amount of \$1700.00.

Analysis

13. Section 2(g) of the *Residential Tenancies Act, 2018* states:

Definitions

2.(g) “rent” means money or other value paid, or required to be paid under a rental agreement, by a tenant to a landlord before or during the use or occupancy of a residential premises **for the use or occupation** of the residential premises.

14. Based on the landlord’s testimony, I accept that the landlord tenancy relationship was not working out for either party and during an altercation on 30-October the landlord called the *Police* to have the tenants, and their belongings removed from the unit. I accept that the landlord wanted the tenants to vacate the unit on that date and in accordance with Section 2(g) of the *Act* as stated above, I find that the tenants are not responsible for rent for the period they did not occupy the residential premises. I find that the tenants are not responsible for rent for the months of November and December 2023.

Decision

15. The landlords claim for rent paid does not succeed.

Issue # 2: Compensation paid for inconveniences \$4370.00

Relevant Submission

16. The landlord testified that she was inconvenienced during the tenancy, and she is seeking \$4370.00 in compensation for her troubles. The landlord submitted an inconveniences ledger to support the claim (LL#6). See breakdown of inconveniences ledger below:

Inconveniences Ledger 2024-1036-NL		
Inconveniences	Amount	Total
Gas Expenses	\$500.00	\$500.00
Baby gates	\$600.00	\$1,100.00
Meals outside the home	\$320.00	\$1,420.00
Laundry expenses	\$150.00	\$1,570.00
Pet sitters	\$300.00	\$1,870.00
Lost wages	\$1,500.00	\$3,370.00
Costs of doctor's / hospital visits	\$1,000.00	\$4,370.00

Landlord’s Position

17. The landlord testified that she was forced to drop her small dog off to several friends all over the city as she was unable to leave the dog at home with the tenants as tenant 2 was afraid of the dog and threatening towards the dog. She is seeking the costs of gas in the amount of \$500.00 to bring the dog back and forth and the landlord is seeking the cost of dog sitters in the amount of \$300.00. The landlord stated that she had to purchase dog gates at the request of the tenants to keep the dog away from the tenants when the dog was at home, and she is seeking \$600.00 to cover the costs of 7 dog gates. The landlord testified that she was forced to eat meals away from her home as the tenants had taken over the kitchen with some smelly foods that fumigated the kitchen area, and she is

seeking \$320.00 to cover the costs of meals away from home. The landlord testified that she was thrown over the stairs by tenant 1 which resulted in a foot injury that prevented her from working and she is seeking \$1500.00 in lost wages and \$1000.00 for the costs to attend doctor's appointments and hospital visits.

Analysis

18. Section 47 of the *Residential Tenancies Act, 2018* states:

Order of director

47 (1). After hearing an application the director may make an order

(h) directing a landlord to pay a tenant an amount as compensation for inconvenience as a result of a contravention of this Act or the rental agreement, and authorizing the tenant to offset that amount against future rent

19. In accordance with Section 47 of the *Act* as stated above, an *Order* can only be made against a landlord for inconveniences and not the reverse. What this means is that there is no provision in the *Act* allowing landlords to seek compensation for their time, pain or suffering and/or personal expenses when renting units to tenants or dealing with tenancy issues. This tribunal does not have the authority to award any monies to a landlord for inconveniences and as such, the items listed on the inconvenience's ledger shall not be analyzed for the purpose of this decision. I find that the tenants are not responsible for the costs of the landlord's inconveniences.

Decision

20. The landlord's claim for inconveniences does not succeed.

Issue # 3: Compensation paid for Damages \$1725.49

Relevant Submission

21. The landlord testified that there were damages / losses to the unit when the tenants vacated, and she is seeking \$1725.49 to cover the costs. The landlord submitted a damages ledger to support the claim (LL#7). See breakdown of damages ledger below:

Damages Ledger 2024-1036-NL		
Damages / losses	Amount	Total
Stained bench	\$425.49	\$425.49
Bedding	\$150.00	\$575.49
kitchen cupboard	\$250.00	\$825.49
Paint walls in bedroom	\$300.00	\$1,125.49
cleaning and cleaning supplies	\$600.00	\$1,725.49

Landlord's Position

22. The landlord testified that there were damages / losses to the unit when the tenants vacated, and she is seeking \$1725.49 to cover the cost. The landlord's position on each item is as follows:

Item # 1: Stained bench (\$425.49) – The landlord testified that a fabric upholstered bench that was located in the tenant's bedroom was stained with urine and other stains and the landlord is seeking \$425.99 to replace the bench. The landlord testified that she made

every attempt to remove the stains with no success and she is seeking the cost to purchase a new bench. The landlord submitted before and after photographs of the bench to support the claim (LL#8) and a copy of an ad to show the cost to replace the bench (LL#9).

Item # 2: Bedding (\$150.00) – The landlord testified that the bedding in the tenant's bedroom was stained with urine and blood and was bleached out and the landlord is seeking \$150.00 to replace the comforter, sheets and a heavy-duty blanket. The landlord submitted photographs of the bedding prior to the tenancy to support the claim (LL#10).

Item # 3: Kitchen cupboard (\$250.00) – The landlord testified that 2 drawers of the kitchen cupboards had a thick plastic liner peeled off by the tenant, ultimately damaging the cupboard drawers. The landlord is seeking \$250.00 to cover the cost to fix the cupboard drawers. The landlord submitted a photograph of the cupboard to support the claim (LL#11).

Item # 4: Paint walls in bedroom (\$300.00) – The landlord testified that the bedroom walls in the tenant's bedroom were badly stained with what appeared to be food residue and she stated that the entire bedroom needed to be painted. The landlord is seeking \$300.00 for the cost of materials and labor to complete the work.

Item # 5: Cleaning and cleaning supplies (\$600.00) - The landlord testified that the unit needed to be cleaned continuously during the tenancy and after the tenants vacated and she stated that she hired a cleaner to assist her with the work which cost \$250.00. The landlord testified that she also had to purchase cleaning supplies to complete the cleaning. The landlord is seeking \$600.00 for the total cost to clean during and after the tenancy and for the cost of cleaning supplies. The landlord submitted photographs of the cleanliness of the unit to support the claim (LL#12).

Analysis

23. In accordance with *Residential Tenancies Policy* 9-3, the applicants are 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)*

24. The tenants were not present to dispute any claims and based on the landlord's testimony and the exhibits entered into evidence, each item listed above is analyzed as follows:

Item # 1: Stained bench (\$425.49) – I accept the landlord's testimony and the exhibits entered into evidence that show that the bench is soiled and needs to be replaced. In accordance with Section 9-3 of the *Policy* as stated above, I find that the landlord was able to show that the damage existed, and she was able to show that the tenants were negligent in causing the damage. The landlord was also able to show the cost to replace the bench. In accordance with Section 9-5 of the *Residential Tenancies Policy*, depreciation and life expectancy shall be taken into consideration and research shows that the life span of an upholstered bench is approximately 11 years (research taken from www.livingspaces.com). I asked the landlord the age of the bench and she responded that it was less than 1 year old when the tenants moved in. I find that the bench has approximately 91% of its life cycle remaining and for that reason, I find that the tenants are responsible for the cost to replace the bench in the amount of \$387.20.

Item # 2: Bedding (\$150.00) – The tenant did not present any photographs to show the stains and blood on the bedding and in accordance with Section 9-3 of the *Policy* as stated above, I find that the landlord was unable to show that the damage existed, and she was unable to show that the tenants were negligent in causing the damage. The landlord also failed to show the cost to replace the bedding and for those reasons, I find that the tenants are not responsible for the cost to replace the bedding.

Item # 3: Kitchen cupboard (\$250.00) – I accept the landlord's testimony that she witnessed one of the tenants peel the liner away from the cupboard drawers and I accept the exhibits entered into evidence that show that the liner on the cupboards was peeled off and needs to be replaced. In accordance with Section 9-3 of the *Policy* as stated above, I find that the landlord was able to show that the damage existed, and she was able to show that the tenants were negligent in causing the damage, however the landlord failed to show the cost to repair the cupboards. I find that an award of some value is warranted and as I am unable to research the cost to repair the cupboards, a nominal amount of \$100.00 will be awarded to repair the cupboards. I find that the tenants are responsible for the cost to repair the kitchen cupboards in the amount of \$100.00.

Item # 4: Paint walls in bedroom (\$300.00) – The landlord did not present any photographs to show the stains and food residue on the bedroom walls and in accordance with Section 9-3 of the *Policy* as stated above, I find that the landlord was unable to show that the damage existed, and she was unable to show that the tenants were negligent in causing the damage. The landlord also failed to show the cost for materials and labor to paint the bedroom and for those reasons, I find that the tenants are not responsible for the cost to paint the bedroom.

Item # 5: Cleaning and cleaning supplies (\$600.00) – I accept the exhibits entered into evidence and the landlord's testimony that she was continuously cleaning the unit during the tenancy and had to clean after the tenants vacated. The landlord's photographs show what an average home looks like on a daily basis after cooking and showering, and I find that the landlord failed to show any amount of dirt outside of the average. Given that the landlord resided at the residence with the tenants, it is difficult to determine if the tenants were negligent or not. In accordance with Section 9-3 of the *Policy* as stated above, I find that the landlord was able to show some dirt but nothing out of the ordinary, and she was unable to show that the tenants were negligent in causing the dirt. The landlord also failed to show the cost for cleaning supplies and labor to clean the unit. For those reasons, I find that the tenants are not responsible for the cost of cleaning supplies and for the cost to clean the unit.

Decision

25. The landlords claim for *compensation for damages* succeeds in the amount of \$487.20.

Issue # 4: Possessions returned \$1800.00

Landlord's Position

26. The landlord testified that an expensive piece of jewelry (diamond butterfly necklace) went missing from her bedroom during the tenancy and she stated that the tenants were the only ones that had access to her bedroom during that time and she is seeking \$1800.00 to replace the jewelry. The landlord submitted photographs of the cost of a piece of jewelry (LL#12) and emails sent to local companies asking to be aware of a pawned necklace (LL#13).

Analysis

27. I accept that the landlord lost or misplaced a piece of jewelry, however she failed to show what the jewelry looked like or how much she paid for the jewelry. The landlord submitted photographs of an arm bracelet however she did not provide any photographs of the necklace on her neck or at her residence, nor did she submit a copy of the receipt showing that she ever purchased the jewelry. The landlord did submit a photograph of an ad showing a piece of jewelry with the price attached however that is not evidence. In addition, I find that the landlord's testimony was conflicting, and I asked her when she first noticed the jewelry missing and she responded that it was after the tenants had moved out of the unit. I asked the landlord if she filed a report with the *Police* and she responded that she did file a report on 30-October, the night they vacated the unit. I accept that there was a *Police* presence and a *Police report* on 30-October, however I find that the landlord could not have had reported the jewelry missing to the *Police* on 30-October if she did not notice it missing from her bedroom until after that date. The landlord submitted copies of emails sent to companies within the jewelry retail section that might come across pawned jewelry; however, this does not prove that the tenants stole her jewelry or the value of the jewelry. I find that the landlord failed to show that the tenants are responsible for any missing jewelry and as such, I find that the tenants are not responsible for the cost of missing possessions.

Decision

28. The landlord's claim for possessions returned does not succeed.

Issue # 4: Hearing Expenses \$250.00

Landlord's Position

29. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and provided a copy of the receipt (LL#14). Also, the landlord stated that she incurred other hearing expenses in the amount of \$230.00.

30. As the landlord failed to provide documentation as to what the other hearing expenses were, I find that the tenants are responsible for the cost of the filing fee only.

Decision

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

Summary of Decision

32. The tenants shall pay the landlord \$507.20 as follows:

Rent paid	\$0.00
Compensation for inconveniences	0.00
Compensation for damages	487.20
Possessions returned	0.00
Hearing expenses	20.00
Total	\$507.20

March 3, 2025

Date

Pamela Pennell, Adjudicator
Residential Tenancies Office