

Residential Tenancies Tribunal

Application 2024-1088-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 8-January-2024 at 1:47 pm.
2. The applicant, [REDACTED] hereinafter referred to as the landlord, was represented by [REDACTED], who attended via teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as the tenants, did not attend.

Preliminary Matters

4. 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 the hearing 10 clear days prior to the hearing date and, where the respondent fails 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 landlords submitted a pair of affidavits (LL#1 and LL#2) with their application stating that they had served the tenants with notice of the hearing electronically on 13-December-2024 at 1:57 pm. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlords, I proceeded with the hearing in their absence.

Issues before the Tribunal

5. Should the landlord's claim for damages succeed?
6. Should the landlord's claim for other compensation succeed?
7. What is the proper disposition of the security deposit?

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 (the *Act*).

Issue 1: Damages

9. The landlord claims \$814.20 in damages, divided amongst three items. These items were the cleaning of the premises, the removal of garbage, and a 20% administrative fee applied to those first two items. As per the Residential Tenancies Program Policy and Procedure Guide 09-003, it is the responsibility of the landlord to provide sufficient evidence to demonstrate sufficient evidence to demonstrate the extent of any alleged damages and the cost of repair, and this should include documentary evidence wherever reasonably possible.
10. First, the landlord claims \$575.00 in cleaning costs. They testified that the tenants left the premises in an unclean state. They described it as “filthy.” They said that many appliances as well as the floor required scrubbing. LL#5 includes photos showing the state of the apartment. It appears largely clean but it seems that the interior of certain appliances and cabinets are untouched and likely require several hours of cleaning. A receipt was included showing the contractor charged \$575.00 for this service. This portion of the landlord’s claim succeeds in the amount of \$575.00.
11. Second, the landlord claims \$103.50. for the removal of garbage. The photos (LL#5) show a few garbage items left behind in the premises. The receipt shows that the contractor charged \$103.50 for the removal of these items. This portion of the landlord’s claim succeeds in the amount of \$103.50.
12. Third, the landlord claims \$135.70 in an administrative fee, representing 20% of the above items. This is authorized by s. 7 of the rental agreement (LL#6). The parties agreed in this section that that damages to the premises left by the tenant would be remedied by the landlord at the tenant’s expense, and an additional 20% administrative fee would be added. This portion of the landlord’s claim succeeds in the amount of \$135.70.
13. The landlord’s claim for damages succeeds in the amount of \$814.20.

Issue 2: Other Compensation

14. The landlord claims for \$375.00 of NSF fees from failed payments by the tenant and sheriff’s fees that were necessary because, according to their testimony, the tenant refused to vacate the property as ordered in a previous decision by this tribunal (see 2024-0795-NL). That decision included an order that stated the director “orders that the tenants shall pay to the landlord any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.”
15. As the sheriff’s fees have already been awarded, a further order on the same amount would constitute double recovery and would be inappropriate.

16. No documentation was provided regarding the NSF charges and that claim therefore fails on an evidentiary basis.
17. This portion of the landlord's claim fails.

Issue 3: Security Deposit

18. As the landlord is owed moneys, they may apply the security deposit against the sum owed. In this case the security deposit was \$675.00 and was received on 10-November-2022.
19. S.14(7) of the *Act* states that a landlord shall credit interest to the tenant on the full amount or value of the security deposit, at the rate prescribed by the regulations, during the time the security deposit is held by the landlord. The regulations set an interest rate of 0% for 2022 and 2023 and a simple cumulative interest rate of 1% annual for 2024 and 2025. Calculated to the date of the hearing, the total interest is \$6.92.
20. \$53.04 was awarded from the security deposit in a previous decision. The total security deposit at the time of the hearing is therefore \$629.88.

Decision

21. The landlord's claim for damages succeeds in the amount of \$814.20.
22. The landlord's claim for other compensation fails.
23. The landlord may apply the security deposit plus interest, totaling \$629.88, against moneys owed.

Summary of Decision

24. The tenant shall pay to the landlord \$184.32 as follows:

Damages.....	\$814.20
Less Security Deposit....-	(\$629.88)
Total.....	\$184.32

29-January-2025
Date


Seren Cahill
Residential Tenancies Office