

Residential Tenancies Tribunal

Application 2024-1146-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 2:01 p.m. on 22-January-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.

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 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 2 affidavits with her application stating that she had served tenant 1 personally at her place of work on 6-January-2025 and she stated that she had served tenant 2 by giving his document to tenant 1 who resides with tenant 2 on 6-January-2025 (LL#1). In accordance with the *Residential Tenancies Act, 2018* this is good service. 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.
5. There was a verbal month-to-month rental agreement which commenced on 1-April-2024. The tenants vacated the unit on 30-September-2024. Rent was \$1600.00 per month, due on the 1st day of each month. A security deposit of \$600.00 was paid on 19-March-2024 and is in the landlord’s possession.

Issues before the Tribunal

6. The landlord is seeking:

- Rent paid \$4800.00
- Late fees paid \$75.00
- Compensation paid for inconveniences \$2450.25
- Compensation paid for damages \$3071.23
- Security deposit to be applied against monies owed \$600.00

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 Act, 2018*: Section 14: Security deposit and Section 15: Fee for failure to pay rent. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Policy Manual*: Section 2-4: Deposits, payments and fees, Section 9-3: Claims for damages to rented premises and Section 9-5: Depreciation and life expectancy of property.

Issue # 1: Rent Paid \$4800.00

Relevant submission

9. The landlord testified that rent is outstanding in the amount of \$4800.00 dating back to the commencement of the tenancy and she submitted a copy of a rental ledger to support the claim (LL#2). See breakdown of rental ledger below:

Rental Ledger 2024-1146-NL			
Date	Action	Amount	Total
April 1, 2024	Rent due	\$1,600.00	\$1,600.00
May 1, 2024	Rent due	\$1,600.00	\$3,200.00
May 1, 2024	Payment	-\$1,600.00	\$1,600.00
June 1, 2024	Rent due	\$1,600.00	\$3,200.00
June 1, 2024	Payment	-\$1,600.00	\$1,600.00
July 1, 2024	Rent due	\$1,600.00	\$3,200.00
July 1, 2024	Payment	-\$1,600.00	\$1,600.00
August 1, 2024	Rent due	\$1,600.00	\$3,200.00
September 1, 2024	Rent due	\$1,600.00	\$4,800.00

Landlord's Position

10. The landlord testified that rent was not paid in April when the tenants took possession of the unit and was paid in full for the months of May – July and then was not paid again for the months of August and September, leaving an outstanding balance of \$4800.00. The landlord testified that she entered into an agreement with the tenants whereby they would complete renovations to the bathroom in lieu of the first month's rental payment for April and she stated that they never completed the renovations properly, thus she is now seeking rent to be paid for the month of April in addition to August and September.

Analysis

11. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid by a tenant(s) during the use or occupancy of a residential premises. I accept the landlord's testimony that she entered into an agreement with the tenants to renovate the bathroom

which involved the installation of a new bathtub, gyprocking the wall and putting sheets of tile on the wall, among other miscellaneous jobs in the bathroom area in exchange for the first month's rent. I asked the landlord if the tenants completed the work, and she responded that they did complete most of the work, however the end result was not satisfactory and all of the work they completed had to be re-done. Based on the landlord's testimony, I find that the tenants fulfilled their obligation to complete the work in exchange for 1 month's rent and although the renovations were not completed to the landlord's satisfaction, it doesn't change the fact that the tenants spent hours of self-labor to complete the renovations in exchange for rent. For that reason, I find that the tenants are not responsible for rent for the month of April; however, I find that they are responsible for outstanding rent for the months of August and September in the amount of \$3200.00.

Decision

12. The landlord's claim for *rent paid* succeeds in the amount of \$3200.00.

Issue # 2: Late Fees \$75.00

Landlord's Position

13. The landlord testified that she is seeking the maximum allowable late fee of \$75.00 for outstanding rent dating back to September 2024.

Analysis

14. Section 15 of the *Residential Tenancies Act, 2018* states:

Fee for failure to pay rent

15. (1) Where a tenant does not pay rent for a rental period within the time stated in the rental agreement, the landlord may charge the tenant a late payment fee in an amount set by the minister.

15. *Residential Tenancies Policy 12-1; Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF* states:

Late payment fee:

A tenant is responsible to pay the landlord the full rent on the day the rent is due. If the rent is not paid on time, the landlord may charge the tenant a late payment fee of \$5.00 for the first day the rent is in arrears and \$2.00 for each additional day that the rent remains unpaid in any consecutive number of rental periods to a maximum of \$75.00.

16. Based on the decision as per paragraph 12 as stated above, rent was in arrears for the months of August and September 2024. In accordance with Section 15 of the *Act* and Sec 12-1 of the *Policy* as stated above, I find that the tenants are responsible for the maximum allowable late payment fee of \$75.00.

Decision

17. The landlord's claim for *late fees paid* succeeds in the amount of \$75.00.

Issue # 3: Compensation for Damages \$3071.23

Relevant Submission

18. The landlord testified that there were damages / losses to the unit when the tenants vacated, and she is seeking \$3071.23 for the losses. The landlord submitted a damages ledger to support the claim (LL#3). See copy of damages ledger below:

Damages Ledger 2024-1146-NL		
Damages / losses	Amount	Total
French Door	\$290.00	\$290.00
Hole in Wall	\$100.00	\$390.00
Step Rail	\$200.00	\$590.00
Bathroom renovations - Materials	\$1,031.23	\$1,621.23
Bathroom renovations - labor costs	\$1,450.00	\$3,071.23

Landlord's Position

19. The landlord testified that there were damages / losses to the unit as listed above and her position on each item is as follows:

Item # 1: French Door (\$290.00) – The landlord testified that the tenants dog ate the french door located in a bedroom downstairs to the point where it was unrepairable, and she stated that she received a quote to replace the french door in the amount of \$290.00, however she later decided to replace the door with a plain interior door that cost \$160.00 including labor to install. The landlord submitted before and after photographs of the French door to support the claim (LL#4) and a copy of a receipt from *Aylwards Home Centre* showing the cost of the new door in the amount of \$89.99 plus tax (LL#5).

Item # 2: Holes in Wall (\$100.00) – The landlord testified that there were 2 holes in the kitchen wall caused by the tenants during the tenancy and she is seeking \$100.00 for the cost of labor to repair the wall. The landlord stated that a plasterer fixed the damage to the walls, and she was charged \$100.00 to have the work completed. The landlord submitted photographs of the holes in the wall to support the claim (LL#6).

Item # 3: Step Rail (\$200.00) - The landlord testified that a portion of the step rail outside the unit was destroyed due to the dog who was tied on to the railing daily and the railing was chewed up by the dog. The landlord is seeking \$200.00 for the cost of materials and labor to have the step rail replaced. The landlord submitted before and after photographs of the step rail to support the claim (LL#7) and a copy of a receipt from *Aylwards Home Centre* to support the claim (LL#8).

Item # 4: Bathroom Renovations - Materials (\$1031.23) – The landlord testified that the tenants agreed to renovate the bathroom in lieu of the first month's rental payment and she testified that the work completed was not up to standard and had to be totally re-done. The landlord testified that door moldings that had been purchased new for the renovation were missing and the other materials purchased were destroyed and had to be purchased again. The landlord is seeking \$1031.23 for the cost of materials which include the door moldings, a new tub enclosure kit and plumbing materials. The landlord submitted photographs of the bathroom renovations that had been attempted by the tenants to support the claim (LL#9) and copies of receipts from *Aylwards Home Centre* to support the claim (LL#10).

Item # 5: Bathroom Renovations – Labor (\$1450.00) - The landlord testified that she had to retain the services of a carpenter / plumber to install the door moldings, remove the sheets of tiles that had been put up in the bathroom by the tenants, remove the

faucets, repair the plumbing, install a tub enclosure kit and complete the unfinished plastering that had not been done. The landlord is seeking \$1450.00 in labor costs to complete the bathroom work, and she submitted a copy of the electronic payment to the contractor / plumber dated 29-October-2024 to support the claim (LL#11).

Analysis

20. 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)*

21. The respondents were not present to dispute any claims, and based on the testimony of the applicant and the photographs / receipts entered into evidence, each item is analyzed as follows:

Item # 1: French Door (\$290.00) – Based on the photographs entered into evidence and in accordance with Section 9-3 of the *Act* as stated above, I find that the landlord was able to show that the damage existed and that the tenants were negligent in causing the damage. The landlord was also able to show the cost to replace the door with one of less value plus a doorknob in the amount of \$126.48. I asked the landlord the age of the french door and she responded that it was new when the tenants moved in. In accordance with Section 9-5 of the *Policy*: Life expectancy of property, french doors have a lifespan of 30-50 years and as the door was relatively new, I find that it is reasonable that the tenants pay the cost to replace the door and door knob in the amount of \$126.48 and I also find that it is reasonable to seek the remainder amount of \$33.52 for installation costs for a total of \$160.00.

Item # 2: Hole in Wall (\$100.00) – Based on the photographs entered into evidence and in accordance with Section 9-3 of the *Act* as stated above, I find that the landlord was able to show that the damage existed and that the tenants were negligent in causing the damage. The landlord was unable to show the exact labor cost to repair the holes as she could only show the total payment for labor costs; however, I find that it is not unreasonable to expect to pay a plasterer \$100.00 to repair two large holes in a wall. For that reason, I find that the tenants are responsible for the cost to repair the holes in the kitchen wall in the amount of \$100.00.

Item # 3: Step Rail (\$200.00) - Based on the photographs entered into evidence and in accordance with Section 9-3 of the *Act* as stated above, I find that the landlord was able to show that the damage existed and that the tenants were negligent in causing the damage. I asked the landlord the age of the step rail and she responded that it was approximately 10 years old. In accordance with Section 9-5 of the *Policy*: Life expectancy of property, decks and railings under ideal conditions have a lifespan of 20 years and as the step rail was 10 years old, it has 50% of its life cycle remaining. I find that it is reasonable that the tenants pay 50% of the cost of materials to replace the step rail in the amount of \$58.63 (\$117.25 x 50%) and I also find that it is reasonable to seek 50% of the remainder amount of \$82.75 for installation costs for a total of \$100.00.

Item # 3: Bathroom Renovations - Materials (\$1031.23) – Based on the photographs entered into evidence showing the end result of the tenant's attempt to renovate the bathroom and in accordance with Section 9-3 of the *Act* as stated above, I find that the landlord was able to show that the damage existed and that the tenants were negligent in causing the damage. I asked the landlord to refer to the photographs and be more

descriptive with regards to what the problem was with the renovations and the landlord testified that the sheets of tile that were put in the bathtub area of the walls were not cut or installed properly leaving gaps in the seams where water could get in behind the tile and there were blobs of glue running down the corners of the tile wall. The photographs confirm the landlord's testimony showing gaps at the seams and sheets of tile overlapping each other with excessive amounts of glue in the seams. I asked the landlord how the plumbing was compromised and she responded that the tenants totally moved the plumbing around and relocated the knob used to turn on and off the water from midway up the wall to the lower portion of the wall and the landlord testified that she was advised by a plumber that a water leak will most likely occur within 6 months if not fixed properly. I asked the landlord the age of the materials that needed to be replaced and she responded that the materials were all purchased new for the tenants to complete the renovations. I asked the landlord to refer to the receipts entered into evidence to identify which items were purchased for the bathroom renovations only and she identified items totally \$594.35. I find that the tenants are responsible for the cost to replace the materials to renovate the bathroom in the amount of \$594.35.

Item # 4: Bathroom Renovations – Labor (\$1450.00) - Based on the decision to award the landlord compensation for materials to renovate the bathroom as per item # 3 above, and based on the testimony of the landlord supported with a photograph of the e-transfer of funds to the carpenter / plumber dated 29-October-2024, I find that it is reasonable to expect that it would cost \$1450.00 in total labor costs to complete all the work required. Given that labor costs have been allocated for the installation of the door, to plaster the holes in the wall and to replace the step rail in the amount of \$239.26 as stated above, I find that the tenants are responsible for the remainder of the labor costs paid to renovate the bathroom in the amount of \$1210.74.

Decision

22. The landlord's claim for compensation for damages succeeds in the amount of \$2165.09.

Issue # 4: Compensation of Inconveniences \$2450.25

Relevant Submission

23. The landlord testified that she was inconvenienced with the cost of electricity and the loss of rental income in the amount of \$2450.25. The landlord submitted an inconveniences ledger to support the claim (LL#12). See copy of inconveniences ledger below:

Inconveniences Ledger 2024-1146-NL		
Damages / losses	Amount	Total
NL Power Bill (Sept 18-30)	\$50.25	\$50.25
Loss of rental income (October)	\$1,600.00	\$1,650.25
Loss of rental income (Nov. 1-15)	\$800.00	\$2,450.25

Landlord's Position

24. The landlord testified that the tenants vacated the unit on 30-September and had the electricity reverted to her name effective 18-September and she is seeking a prorated amount of the electricity bill for September 18-30 in the amount of \$50.25. The landlord submitted a copy of the *NL Power* bill to support the claim (LL#13). The landlord is also

seeking the loss of rental income for the period of 1-October to 15-November in the amount of \$2400.00 while the bathroom renovations were underway.

Analysis

25. 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

26. 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 inconveniences. This tribunal does not have the authority to award any compensation to a landlord for their inconveniences unless they can be identified as damages / losses. I find that the items listed on the landlord's *inconveniences ledger* should have been listed as damages / losses to the landlord and shall be analyzed as such.

27. I find that the electricity usage for the time the tenants resided at the premises is the responsibility of the tenants and for that reason, I find that the tenants are responsible for a prorated amount of the electricity for 13 days in the amount of \$50.25.

28. With regards to the loss of rental income for 6 weeks, I asked the landlord why it took so long to have the renovations completed and she testified that it was difficult to find a reputable person to do the work. I asked the landlord how long it took to actually complete the work, and she responded that it took 1 week. I find that it is reasonable to expect the tenants to pay for the landlord's loss of rental income for the time it took to actually complete the bathroom work, and for that reason, I find that the tenants are responsible for the loss of rental income for 1 week in the amount of \$367.22 (\$1600 x 12 mths = \$19200 / 366 days = \$52.46 per day x 7 days).

Decision

29. The landlord's claim for *compensation for inconveniences / losses* succeeds in the amount of \$417.47.

Issue # 5: Security deposit applied against monies owed \$600.00

Analysis

30. Section 14 of the *Residential Tenancies Act, 2018* states:

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).*

31. The landlord's claim for losses has been successful as per paragraphs 12, 17, 22, and 29 above, and as such I find that the landlord's claim to have the security deposit applied against monies owed succeeds. 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 rate for 2024-2025 is currently 1%.

Decision

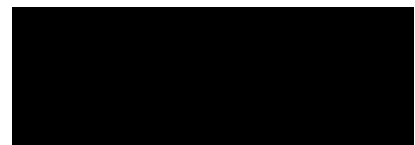
32. The landlord's claim to have the *security deposit applied against monies owed* succeeds.

Summary of Decision

33. The tenants shall pay the landlord \$5252.46 as follows:

Rent paid	\$3200.00
Late fees	75.00
Compensation for damages	2165.09
Compensation for Inconveniences	417.47
Less: security deposit & interest.....	605.10
Total	\$5252.46

February 18, 2025
Date



Pamela Pennell, Adjudicator
Residential Tenancies Office