

Residential Tenancies Tribunal

Application 2024-1186-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 28-January-2025 at 9:16 am.
2. The applicant, [REDACTED], hereinafter referred to as the landlord, attended via teleconference and was assisted in his testimony by [REDACTED].
3. The respondent, [REDACTED], hereinafter referred to as the tenant, did not attend.

Preliminary Matters

4. The tenant was 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 an affidavit (LL#25) with their application stating that they had served the tenants with notice of the hearing electronically on 04-January-2025. Proof of service was also provided. 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 unpaid rent and late payment fees succeed?
6. Should the landlord's claim for damages succeed?
7. Should the landlord's claim for other relief succeed?

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: Unpaid Rent

9. The landlord claims for unpaid rent in the amount of \$1550.00. This represents the full monthly rent of \$1200.00/month for December 2023 and \$350.00 which the landlord testifies was the balance owed for November 2023. A rental ledger was provided (LL#24).
10. I accept the landlord's uncontradicted testimony. The landlord's claim for unpaid rent succeeds in the amount of \$1550.00.
11. The landlord also claims for \$75.00 in late fees. According to s. 15(1) of the *Act*, 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. The minister has set the rate for late payment fees at \$5.00 for the first day and \$2.00 for each day thereafter to a maximum of \$75.00. As the rent has been overdue for more than 35 days, the maximum late payment fee applies.
12. The landlord's claim for late fees succeeds in the amount of \$75.00.

Issue 2: Damages

13. The landlord claims for damages in the amount of \$1049.00 divided amongst 6 items. Each item will be dealt with separately below. In accordance with Policy 09-003, to succeed in a claim for damages, a landlord must provide sufficient evidence to show that something was damaged by the wilful or negligent act of a tenant or a person they allowed on the premises, the extent of the damage, and the cost of replacement or repair. This must include documentary evidence where reasonably possible.
14. First, the landlord claims \$350.00 for the repair of flooring they say was damaged by the tenant. A photo of the damaged flooring was provided (LL#5). No documentary evidence was provided for the cost of materials. However, the landlord estimated it would take him about eight hours to complete the repairs. In accordance with Policy 09-003, self-labour is compensable at the rate of minimum wage + \$8/hour, currently \$23.60/hour. The landlord may therefore claim up to \$188.80 for the cost of labour.
15. The purpose of this tribunal is compensatory. In other words, the purpose is to restore the injured party to the state they would be in had the other party not breached the agreement and/or the *Act*. The landlord testified that the laminate flooring was originally installed in 2008. Had the tenant not damaged the flooring, the landlord would be in possession of laminate flooring of ~17 years of age. The expected lifespan of laminate flooring is 15-25 years. To account for depreciation, the cost of repair should be multiplied by the expected remaining lifespan and divided by the total life expectancy.
16. This portion of the landlord's claim succeeds in the amount of $188.80 * (3/20) = \$28.32$.
17. Second, the landlord claims \$89.00 for an interior door they say was damaged by the tenant. No documentary evidence was provided showing the damaged door. There is

insufficient evidence to establish the extent of the damage and therefore this portion of the landlord's claim fails.

18. Third, the landlord claims \$300.00 for wall repair. Photos were provided showing the wall in a state of partial repair (LL#9-10) and of the bracket of a wall-mounted television (LL#3). No receipts were provided showing the cost of materials. The landlord did testify that the repair took ~5-6 hours.
19. This portion of the landlord's claim succeeds in the amount of $(\$23.60 * 5.5 \text{ hours}) = \129.80 .
20. Fourth, the landlord claims \$50.00 for the repair of a damaged kitchen cabinet. Photos were provided of the damaged cabinet (LL#6-7). No photos were provided of the cost of materials, but the landlord testified that the repair took ~2 hours.
21. This portion of the landlord's claim succeeds in the amount of \$50.00, the amount claimed.
22. Fifth, the landlord claims \$110.00 for the replacement of two exterior keyed entrance locks as the tenants did not return the keys. According to Policy 2-004, the changing of locks is considered part of the cost of doing business and is not compensable unless the tenant or a person they allow on the premises physically damages the lock itself. This portion of the landlord's claim therefore fails.
23. Sixth, the landlord claims \$150.00 for cleanup and removal of garbage. Photos were provided showing the premises were left in an unclean state, with significant amounts of physical garbage (LL#13-23). I estimate that it would take about ~6.5 hours of cleaning.
24. This portion of the landlord's claim succeeds in the amount claimed, \$150.00.
25. The landlord's claim for damages succeeds in the amount of \$358.12.

Issue 3: Other

26. The landlord claims for other compensation in the amount of \$1090.00 for the cost of storing a boat and trailer on the premises from 1-January-2024 to 6-August-2024. The landlord testified that the amount was calculated at the rate of \$5.00/day. This rate was a nominal amount.
27. Being compensatory in nature, this tribunal only awards amounts in response to actual financial costs accrued. There was no evidence of actual costs incurred in relation to the storage of the boat so, despite the inconvenience, no compensation can be awarded. This portion of the landlord's claim fails.

Decision

28. The landlord's claim for unpaid rent succeeds in the amount of \$1550.00.
29. The landlord's claim for late fees succeeds in the amount of \$75.00.

30. The landlord's claim for damages succeeds in the amount of \$358.12.
31. The landlord was successful in their claim and may therefore seek to be reimbursed for their reasonable hearing expenses. In this case, they claim for the \$20.00 application fee and for the \$6.04 our office charges for the cost of printing a copy of the *Act*. A copy of the *Act* is not a necessary cost. Beyond that, landlords are expected to understand the *Act* whether or not they have a dispute before this tribunal. I award only the \$20.00 application fee.

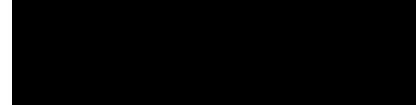
Summary of Decision

32. The tenant shall pay to the landlord \$2003.12 as follows:

Unpaid Rent.....	\$1550.00
Late Fees.....	\$75.00
Damages.....	\$358.12
Hearing Expenses.....	\$20.00
 Total.....	 \$2003.12

20-March-2025

Date


Seren Cahill
Residential Tenancies Office