

Residential Tenancies Tribunal

Application 2025-0081-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:59 p.m. on 5-March-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 able to reach tenant 1 who declined participation in the hearing. I was unable to reach tenant 2 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 the tenants with the Notice of Hearing document electronically by email to; [REDACTED] and [REDACTED] on 30-January-2025 (LL#1). The landlord submitted proof that the emails were sent and proof of the email addresses (LL#2). 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 written month-to-month rental agreement which commenced on 14-October-2023. The tenants vacated the unit on 30-December-2024. Rent was \$3200.00 per month, due on the 14th day of each month. A security deposit of \$2400.00 was paid on 14-October-2023 and is in the landlord's possession.
6. The disposition of the security deposit shall be dealt with in this decision.

Issues before the Tribunal

7. The landlord is seeking:
 - Rent paid \$8400.00
 - Compensation paid for inconveniences \$1600.00
 - Compensation paid for damages \$1100.00
 - Security deposit to be applied against monies owed \$2400.00

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 14: Security deposit. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual*: Section 9-3: Claims for damages to rented premises.

Issue # 1: Rent Paid \$8400.00

Relevant submission

10. The landlord testified that rent is outstanding in the amount of \$8400.00 dating back to 14-December- 2024 and she submitted a copy of a rental ledger to support the claim (LL#3). See breakdown of rental ledger below:

Rental Ledger 2024-0081-NL			
Date	Action	Amount	Total
Decmeber 13, 2024	Balance	\$0.00	\$0.00
December 14, 2024	Rent due	\$3,200.00	\$3,200.00
December 14, 2024	Payment	-\$1,200.00	\$2,000.00
January 14, 2025	Rent due	\$3,200.00	\$5,200.00
February 14, 2025	Rent due	\$3,200.00	\$8,400.00

Landlord's Position

11. The landlord testified that the tenants abandoned the property on 30-December-2024 and she testified that she was not made aware of the abandonment until 8-January-2025 when a neighbor notified her that her property was vacant, and she reached out to tenant 1 who confirmed that they had vacated the unit. The landlord stated that she is seeking the outstanding rent for 14-December to 13-January in the amount of \$2000.00 and she is also seeking rent to be paid in full for the following 2 rental periods in the amount of \$6400.00 as she incurred a loss of rental income for that period.

Analysis

12. 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 the tenants abandoned the unit without any notice and had an outstanding rental balance of \$2000.00 as of 13-January-2025. I also accept that the tenants were responsible to give the landlord a 1-months' notice before vacating the unit, and as such I find that the tenants are responsible for rent for the period of 14-January to 13-February in the amount of \$3200.00. I asked the landlord if she made any efforts to mitigate her

losses to re-rent the unit and she responded that she did not as she listed the property for sale on 11-January-2025 and she stated that the property is scheduled to close on 11-March-2025. I find that the tenants are not responsible for rent for the period of 14-February to 13-March.

Decision

13. The landlord's claim for *rent paid* succeeds in the amount of \$5200.00.

Issue # 2: Compensation for Inconveniences \$1600.00

Relevant Submission

14. The landlord testified that she was inconvenienced after the tenants abandoned the unit and she is seeking reimbursement of \$1600.00 for costs she had to incur. The landlord submitted an inconveniences ledger to support the claim (LL#4). See copy of inconveniences ledger below:

Item #	Description of Inconveniences	Compensation Claimed
E.g.	2 Nights at hotel to allow fumigation of apartment	\$ 450.00
1	Cleaning bill	\$ 700.00
2	Contractor to fix holes	\$ 500.00
3	Changing locks	\$ 400.00

Landlord's Position

15. The landlord testified that she resides outside of the province and her realtor took care of getting the property ready for market and she stated that she was inconvenienced with the cost of the following items:

Item # 1: Cleaning (\$700.00) – The landlord testified that the realtor hired a cleaner on her behalf to clean the property prior to listing it and she is seeking the cost of the cleaner in the amount of \$700.00. The landlord submitted photographs to show the cleanliness of the unit (LL#5), and she submitted a copy of an invoice to support the claim (LL#6).

Item # 2: Contractor to fix walls (\$500.00) – The landlord testified that there were holes in 1 wall and damage to the bottom area of another wall, and her realtor hired a contractor to repair the walls. The landlord stated that she is seeking the cost of labor to repair the walls in the amount of \$500.00. The landlord submitted photographs of the walls to support the claim (LL#7).

Item # 3: Changing locks (\$400.00) - The landlord testified that the tenants abandoned the property and took the keys to the unit with them. The landlord is seeking \$400.00 for the cost to replace the locks to the unit.

Analysis

16. 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

17. 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.

18. 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)*

Item # 1: Cleaning (\$700.00) – Based on the photographs entered into evidence, I find that the landlord was unable to show that the unit was left in a poor state of cleanliness. The photographs show that there was some stuff left around and the floors need to be cleaned. I accept that the landlord paid \$690.00 for a deep clean of the unit, which was probably warranted given she was getting the property ready to list for sale. I find that the floors could mostly likely have been cleaned and shined in 2 hours and the other stuff that was left around could have been cleared away in 1 hour. I find that the tenants are responsible for the cost of cleaning in the amount of \$70.80 (3 hrs x allowable rate of \$23.60 per hr).

Item # 2: Contractor to fix walls (\$500.00) – Based on the photographs entered into evidence, I accept that the landlord was able to show that 1 wall had several large sized holes and a second wall had extensive damage which needed to be repaired, and the landlord was able to show that the tenants were negligent in causing the damage. The landlord failed to show the value to repair the damage to the walls, however an award of some value is warranted. I accept that it is reasonable to expect that it would take a contractor 9-10 hours to plaster, sand, re-plaster and prime and paint the walls. Research shows that the average hourly salary of a contractor is \$33.38 per hour (research taken from www.indeed.com). I find that the tenants are responsible for labor costs to repair the damage to the walls in the amount of \$333.80 (10 hrs x \$33.38 per hr).

Item # 3: Changing locks (\$400.00) – I accept the landlord's testimony that the tenants abandoned the unit and took the keys to the unit with them; however, I find that changing the locks to a unit after tenants vacate falls under “*the cost of doing business*”, and for that reason I find that the tenants are not responsible for the cost to change the locks.

Decision

19. The landlord's claim for *compensation paid for inconveniences* succeeds in the amount of \$404.63.

Item # 3: Compensation for Damages \$1100.00

Relevant Submission

20. The landlord testified that there were damages / losses to the unit, and she is seeking \$1100.00 to cover her cost to repair /replace as needed. The landlord submitted a damages ledger to support the claim (LL#8). See copy of damages ledger below:

Item #	Description of Damages	Compensation Claimed
E.g.	3cm x 3cm hole in bathroom wall	\$ 75.00
1	Holes in living room walls	\$ 100.00
2	Holes in master bedroom walls	\$ 100.00
3	Damaged dishwasher	\$ 800.00
4	Damaged drawer of cabinet in basement	\$ 100.00

Landlord's Position

21. The landlord testified that there were damages / losses to the unit which costs her \$1100.00 to repair / replace and she is seeking reimbursement for her costs. The landlord's position on each item is as follows:

Item # 1: Holes in walls (\$200.00) – The landlord testified that there were holes and other damage to 2 separate walls, and she is seeking the cost of materials to repair the damage to the walls in the amount of \$200.00. The landlord submitted photographs of the damage to walls to support the claim (LL#7).

Item # 2: Damaged dishwasher (\$800.00) – The landlord testified that there was damage to the dishwasher door which involved the door hinges, and she is seeking \$800.00 for the cost to repair the dishwasher.

Item # 3: Damaged drawer of cabinet in basement (\$100.00) - The landlord testified that there was damage to a pull-out drawer located in a cabinet in the basement area and she is seeking \$100.00 for the cost of labor to repair the drawer. The landlord submitted a photograph of the drawer to support the claim (LL#7).

Analysis

22. Based on the testimony of the applicant and the photographs / receipts entered into evidence, each item is analyzed as follows. Note: Section 9-3 of the *Residential Tenancies Policy* as stated above in paragraph 18 applies.

Item # 1: Holes in walls (\$200.00) – Compensation has been awarded for the cost of labor to repair the damage / holes to the walls and as such, the tenants shall be responsible for the cost of materials as well. The landlord failed to show which materials were purchased and the cost of those materials, however an award of some value is warranted. I find that a nominal amount of \$100.00 is reasonable to expect to pay for materials to repair 2 walls. I find that the tenants are responsible for the cost of materials to repair the damaged walls in the amount of \$100.00.

Item # 2: Damaged dishwasher (\$800.00) – In accordance with section 9-3 of the *Act* as stated above, I find that the landlord failed to show that the damage existed, she failed to show that the tenants were negligent in causing the damage to the dishwasher and she failed to show the value to repair the dishwasher. For those reasons, I find that the tenants are not responsible for the cost to repair the dishwasher.

Item # 3: Damaged drawer of cabinet in basement (\$100.00) – Based on the photograph 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 she was able to show that the tenants were negligent in causing the damage, however she failed to show the cost to repair the damaged drawer. I find that an award of some value is warranted. I accept that it is reasonable to expect that a contractor would repair the damage in 1 hour and research shows that the average hourly salary of a contractor is \$33.38 per hour (research taken from www.indeed.com). I find that the tenants are responsible for the cost to repair the damaged drawer in the amount of \$33.38.

Decision

23. The landlord's claim for *compensation for damages* succeeds in the amount of \$133.38.

Issue # 4: Security deposit applied against monies owed \$2400.00

Analysis

24. 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).*

25. The landlord's claim for losses has been successful as per paragraphs 13, 19, and 23, 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 2023 was 0% and is currently 1% for 2024-2025.

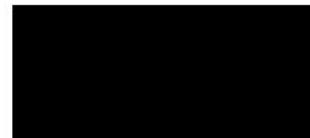
Decision

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

Summary of Decision

27. The tenants shall pay the landlord \$3309.74 as follows:

Rent paid	\$5200.00
Compensation for inconveniences	404.63
Compensation for damages	133.38
Less: security deposit & interest.....	2428.27
Total	\$3309.74



March 13, 2025

Date

Pamela Pennell, Adjudicator
Residential Tenancies Office