

Residential Tenancies Tribunal

Application 2025-0287-NL & 2025-0337-NL

Michael Reddy
Adjudicator

Introduction

1. Hearing held at 9:03 AM on 1-May-2025 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as the tenant, did not attend the hearing. [REDACTED], hereinafter referred to as the tenant's authorized representative, attended the hearing.
3. The respondent and counter-applicant, [REDACTED] hereinafter referred to as the landlord, attended the hearing.

Preliminary Matters

4. The tenant submitted an affidavit (T#1) along with the application stating the landlord had been served by registered mail ([REDACTED]) on 4-April-2025 at approximately 3:20 PM. The landlord did not dispute this service. In accordance with the *Residential Tenancies Act (the Act), 2018*, this is considered good service.
5. The landlord submitted an affidavit (L#1) along with his application stating the tenant had been electronically served ([REDACTED]) and by text message ([REDACTED]) on 16-April-2025 at approximately 3:59 PM. The tenant's representative did not dispute this service. In accordance with the *Residential Tenancies Act (the Act), 2018*, this is considered good service.
6. There is a written fixed term rental agreement which commenced on 1-September-2024 (T#2) scheduled to end on 30-August-2025. The tenant issued the landlord notice of termination on 8-March-2025 and returned the keys of the rental premises on 22-March-2025. Rent was set at \$1250.00 due on the 1st of each month. There was a security deposit of \$937.00 (T#3) collected on the tenancy on 27-July-2024 and still in possession of the landlord.

7. The tenants authorized representative has been removed from the tenants application for dispute resolution as he was not a tenant, but rather an emergency contact and representative of the tenant.

Issues before the Tribunal

8. The tenant is seeking:
 - a refund of the security deposit plus interest; and
 - \$20.00 hearing expenses.
9. The landlord is seeking:
 - Determination of the validity of the termination notice issued by the tenant;
 - rental arrears of \$2500.00;
 - Compensation for damages in the amount of \$1169.00;
 - the security deposit to be applied against monies owed; and
 - \$20.00 hearing expenses.

Legislation and Policy

10. The jurisdiction of the Director of Residential Tenancies is outlined in Sections 46 and 47 of the *Residential Tenancies Act, 2018*.
11. Also, relevant and referred to in this decision is Sections 14, 20, and 34 of the *Act*, as relevant and referred to in this decision are Sections 14 and 34 of the *Act*, as well as Policies 09-003 and 12-001 of the Residential Tenancies Policy Manual.

Issue 1: Validity of Termination Notice and Rental Arrears

Relevant Submission

12. The tenants and landlord entered into a fixed term rental agreement on 1-September-2025 scheduled to end on 30-August-2025. The tenants submitted a copy of a text message which the tenants sent indicating they would be vacating the premises at the end of March-2025(T#4).

Tenants Position

13. The tenant's representative testified on 30-January-2025 and 1-February, the tenant contacted the landlord indicating concerns with mold inside the rental premises. The tenant's representative stated the tenant did not wish to remain occupants as there were health concerns with doing so and the landlord did not

rectify concerns with mold. Upon securing another residence, the tenant sent the landlord notification by text message on 8-March- 2025 that they would be vacating by end of March 2025. The tenant's representative stated the keys were returned to the landlord on 22-March-2025 (T#5). The tenant did not supply the landlord with a request for repairs during the tenancy to address the alleged mold issue.

14. Along with the application, the tenant supplied a written chronology related to the occupancy (T#6).
15. The tenant's representative testified after notifying the landlord of concerns with mold, the landlord asked the tenants to open the windows of the rental premises to help with air flow. He stated mold was observed during the winter and when the tenants were cooking, they used the fan on the rangehood. He testified the heat was included in with the rent however it did not "make sense" to open the windows during the wintertime. The tenant maintains that, as the issue with mold was not handled by the landlord they were left with no option but to leave and provided official notice to the landlord on 7-March-2025.

Landlord Position

16. The landlord did not dispute the tenant vacated the rental premises in March 2025 and testified the tenant had contacted him about concerns with mold in the rental. The landlord stated the mold was related to the tenant's lack of appropriate use of the fan on the range hood, keeping wet clothing in the rental, and lack of regular cleaning of the apartment.
17. The landlord testified the rental property was 60 years old and he had purchased the property 5 years ago and had not witnessed any mold in the residence up until the tenants took occupancy. He stated the hearing source is electric hot water and the premises does not have an air exchanger.
18. The landlord stated he was seeking rent for April and May 2025 and supplied a rental ledger (L#2) as the tenants broke a fixed lease rental agreement and did not supply a notice in compliance with the Act. Along with his application, he supplied a copy of the termination notice received from the tenant (L#3). He testified he attempted to secure new tenants and had placed an ad on marketplace; however, "numerous people viewed the apartment and they either didn't like it or (they) were not working". No evidence was supplied by the landlord in relation to the rental being posted on marketplace.

Analysis

19. I accept the testimony of both parties. While their explanations or reasons outlined for the presence of mold in the premises differ, both parties noted that

the tenant had expressed concerns, and the tenant felt these concerns were not addressed. Under Section 10(1) of the Act, the landlord must keep the property in a good state of repair. However, the Act provides mechanisms for addressing such issues. Section 20 requires tenant to give written notice of a contravention of a material term and allow the landlord a reasonable time to remedy it. If unresolved, tenant may terminate the agreement by giving not less than one month's notice before the end of a rental period for a fixed-term tenancy (Section 20(3)(b)(i)).

20. Additionally, Section 34 outlines notice requirements:

34. A notice under this Act shall

- (a) be in writing in the form prescribed by the minister;*
- (b) contain the name and address of the recipient;*
- (c) identify the residential premises for which the notice is given; and*
- (d) state the section of this Act under which the notice is given.*

21. The tenants' notice on March 8, 2025, and return of keys on March 22, 2025, do not comply with Section 20's notice period or Section 34's content requirements. The termination notice is not in the form prescribed by the minister, it lacked the recipient's name and address, the premises identification, and the relevant section of the Act. For these reasons, the notice is deemed invalid.
22. A landlord has a legal duty to mitigate losses after tenants vacate. Mitigation involves taking reasonable steps to re-rent the property. While no documentary evidence was provided, I accept the landlord's testimony that he attempted to secure new tenants via Marketplace. The onus is on the landlord to prove loss and on the tenant to show failure to mitigate. On balance, I find the landlord took reasonable steps.
23. As the tenant did not issue a compliant termination notice and the landlord attempted to mitigate losses, I find the tenant responsible for rent in the amount of \$2,500.00 for April and May 2025.

Decision

24. The termination notice dated 8-May-2025 is not a valid notice.
25. The landlord's claim for compensation of \$2500.00 for rent succeeds for April and May 2025.

Issue 2: Compensation for Damages \$1169.00

26. The landlord testified that there were damages/losses to the unit, and he is seeking \$1169.00 to cover his costs to repair/replace as needed. The landlord submitted a damages ledger to support the claim (L#4) listing 6 line-items as recreated below:

	Description of Damages	Compensation Claimed
1.	Office chair matt cracked	\$69.00
2.	Stains Carpet removed 250 square feet	\$700.00
3.	Damage to walls required painting	\$80.00
4.	Damage to Ottoman	\$40.00
5.	Damage to Oven	\$200.00
6.	Cleaning of Rental	\$80.00

27. Each item will be addressed individually below.

Item 1: Office Chair Matt

28. The landlord testified the floor matt was between 2 to 3 years old and it could not be repaired and had to be replaced. The landlord supplied pictorial evidence along with his application (L#5) and was seeking compensation of \$69.00 for this item. There was no receipt for purchase of a new matt supplied to this Tribunal.

29. The tenant's representative ceded the charge of office chair matt.

Item 2: Carpet

30. The landlord testified the carpet in the rental premises was 7 years old as he stated, "when we purchased the house, the previous owner said he installed it". He stated there were two areas which had to be replaced: under the office desk and by the couch. Along with the application, the landlord supplied pictorial evidence of the carpet (L#6). The landlord stated he had a professional cleaner attend the rental premises for two hours, who attempted to remove the stains, however this attempt was unsuccessful. The landlord testified 200 square feet of carpet had to be replaced.

31. There were no receipts for the professional cleaner or the cost associated with replacement of the carpet supplied to this Tribunal.

32. The tenant's representative testified the stains were present when they had moved into the rental premises. He stated one of the stains in the carpet was underneath the couch which he felt was placed to "hide" the stain and during the tenancy, they did not move this piece of furniture.

Item 3: Damage to Walls

33. The landlord testified the rental premises was last painted 18 months ago prior to occupancy of the tenants and the walls were damaged around the exterior door and a water pipe in property. He stated the tenants had used “external foam” that was intended for external use and due improper foam being used, this “damaged” the walls. Along with his application, the landlord supplied pictorial evidence (L#7). The landlord stated that as of the date of the hearing, the rental premises had not been repainted. The landlord is seeking \$80.00 compensation in relation to re-painting the rental premises.
34. There were no receipts supplied in relation to repairs to the walls and re-painting.
35. The tenant’s representative testified there were holes in the walls when they moved into the residence, and they had used spray foam to help “discourage” rodents from gaining access. He stated the foam was suggested to them by a local hardware store to be used.

Item 4: Damage to Ottoman

36. The landlord testified he was unsure the age of the Ottoman and that he had purchased the item for \$40.00 on marketplace. He stated the item could be repaired. Along with his application, the landlord supplied pictorial evidence (L#8). The landlord stated the damage to the Ottoman was due to mold which was the responsibility of the tenants.
37. The tenant’s representative disputed they were responsible for the Ottomans’ damage.

Item 5: Damage to Kitchen Stove

38. The landlord testified the kitchen stove was 3 years old and shortly thereafter taking occupancy of the rental premises, the smoke alarm “came on” in September 2024 due to the tenant’s use of the stove. He was seeking \$200.00 compensation, and he arrived at this amount as he stated, “it is about 3 years old. It is \$800.00 for a new oven. \$200.00 would be sufficient”. As of the date of the hearing, the landlord stated the kitchen stove had not been replaced. The landlord did not indicate if the stove could be repaired or had to be replaced.
39. The tenant’s representative disputed the tenants were responsible for the damage to the kitchen stove and supplied pictorial evidence (T#7) of the stove time stamped 2-Septmber-2024. The tenant’s representative testified the smoke alarm sounded on 7-September-2025.

Item 6: Cleaning of the Rental

40. The landlord testified after the tenant vacated the rental premises, he had a cleaner attend on 26-March-2025 to clean for 2 hours. He stated, "I will leave it to your opinion on cleaning and if it was required". The landlord is seeking \$80.00 compensation for cleaning one room of the rental.
41. There was a text message from an individual indicating 2 hours work completed in the amount of \$80.00 (L#8). There was no pictorial evidence supplied to this Tribunal related to cleaning the rental premises by the landlord.
42. The tenant's representative testified they had contacted the landlord on 18-March-2025 and asked if there was additional cleaning required. He stated the landlord did not respond. On 22-March-2025 the tenant's representative stated they again asked the landlord to complete an inspection to determine if they were responsible to complete additional cleaning of the rental premises, which the landlord did not respond to.
43. Along with their application, the tenant supplied pictorial evidence of the rental prior to ending their occupancy (T#8).

Analysis

44. With all damage claims, three primary things must be established:
 - a) The damages exist and occurred throughout the tenancy;
 - b) The tenants are responsible for the damage through willful or negligent act(s);
 - c) The value to repair or replace the damaged items. When considering the value to repair and replace each item, depreciation should also be a factor.

Item 1: Office Chair Matt

45. The tenant's representative ceded the costs associated related to the Office Chair matt. While no receipt was provided, pictorial evidence supports the claim. This portion of the landlord's claim succeeds in the amount of \$69.00.

Item 2: Carpet

46. The landlord testified that the carpet was approximately seven years old, and provided photos to support the existence of damage, but no receipts for cleaning or replacement. The tenant's representative testified that the carpet stains were pre-existing. Given the age of the carpet as well as lack of proof to support a determination that damage occurred during the tenancy through the tenants willful or negligent acts, awarding a replacement cost is not justified. This portion of the landlords claim fails.

Item 3: Damage to Walls

47. The landlord alleges damage from spray foam. However, the tenant claims the holes were pre-existing. There were no receipts provided to support the cost claimed by the landlord for repairs required. And while photos show some alteration, on the balance of probabilities the evidence does not establish tenant negligence. This portion of the landlords claim fails.

Item 4: Damage to Ottoman

48. The landlord purchased the item used and attributes damage to mold without expert evidence. No evidence was provided as to the age of the item, nor the cost of repair or replacement. Further, while the photo demonstrates some damage, there is no proof that the tenant caused the damage through negligence. This portion of the landlords claim fails.

Item 5: Damage to Kitchen Stove

49. The landlord claims damage but provided no evidence of repair or replacement. Photos from tenant show the stove as intact. There is insufficient evidence, on the balance of probabilities, to make a determination. This portion of the landlords claim fails.

Item 6: Cleaning of the Rental

50. The landlord provided a text message confirming that he had two-hours of cleaning conducted on the premises following the tenant's departure but provided no photos of the unit's condition. In contrast, the tenant's representative supplied photos showing the premises to be in a clean and reasonable condition upon departure. This portion of the landlords claim fails.

Decision

51. The landlord's claim for compensation for damages partially succeeds in the amount of \$69.00.

Issue 3: Security Deposit

Relevant Submission

52. The tenant is seeking refund of the security deposit of \$937.00. The tenant supplied evidence (T#9) of the payment of the security deposit.

53. The landlord is seeking to retain the security deposit.

Analysis

54. In accordance with section 14 of the Act, if a landlord has collected a security deposit from a tenant, and if at any point during the tenancy or after it has ended, the landlord believes that they are entitled to retain some or all that deposit as compensation for a liability of the tenant, or as compensation for the tenant's failure to fulfil their obligations under the rental agreement, the landlord may either enter a written agreement with the tenant on the disposition of the deposit, or file an Application for Dispute Resolution with this Division, seeking compensation for financial damages; and to retain the deposit to offset the financial damages.

55. As the landlord's claim for compensation has been successful, the security deposit shall be applied against monies owed.

56. Section 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 prescribe a 1% annual interest rate for both 2024 and 2025. Calculated to the date of hearing, this results in \$7.17.

Decision

57. The landlord shall retain the security deposit plus applicable interest in the amount of \$944.17.

Issue 4: Hearing expenses

Relevant Submission

58. Both the tenant and the landlord are seeking to claim the \$20.00 hearing fee paid. Along with their applications, each party supplied a hearing fee receipt (T#9, L#10).

Analysis

59. In accordance with Section 12-001 of the Residential Tenancies Policy Manual: Costs, the director has the authority to order "*an unsuccessful party to an application to pay the costs to a successful party to an application*". As the landlord was partially successful in his application, hearing expenses will be awarded.

60. It is noted that tenants filing an application seeking the return of the security deposit only are not required to pay an application / hearing fee to Residential

Tenancies. As it is evident that the tenant did in fact pay this fee, it is recommended that they contact the residential tenancies office to seek reimbursement.

Decision

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

Summary of Decision

62. The tenant shall pay to the landlord \$1644.83 determined as follows:

Rental arrears.....	\$2500.00
Compensation for damages.....	\$69.00
Less Security deposit plus interest.....	\$944.17
Hearing expenses.....	\$20.00
 Total.....	 <u>\$1644.83</u>

21-November-2025

Date

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Residential Tenancies Office