

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0015-04

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:08 AM on 19 May 2022 via teleconference.
2. The applicant, [REDACTED] and [REDACTED] hereinafter referred to as "landlord1" and "landlord2", respectively, participated in the hearing. The respondent, [REDACTED] hereinafter referred to as "the tenant", was also in attendance.

Issues before the Tribunal

3. The landlord is seeking the following:
 - An order for a payment of \$1000.00 in compensation for damages,
 - An order for a payment of rent in the amount of \$3600.00, and
 - An order for a payment of \$500.00 in compensation for inconvenience.

Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this decision is policy 9-3: Claims for Damage to Rental Premises.

Issue 1: Compensation for Damages - \$1000.00

Relevant Submissions

The Landlord's Position

6. The landlords entered into a verbal rental agreement with the tenant in August 2015. The agreed rent was set at \$800.00 per month.
7. In April 2021, the tenant informed the landlords that she was terminating their rental agreement and she vacated the unit at the end of June 2021.
8. The landlords claimed that the tenant had caused some damages to the unit during this tenancy, and they submitted the following breakdown of the costs of carrying out repairs and purchasing supplies (█ #1):

• 20 x 18 carpet	\$679.00
• Electric range	\$1198.00
• Drywall tape	\$11.49
• Drywall compound.....	\$28.99
• 1 gallon semi-gloss paint.....	\$40.49
• 2 quarts semi-gloss paint	\$28.98
• Labour 8 hours	\$240.00
• Wall plates	\$8.04
• 3 closet door knobs	\$10.47
• 2 door handles	\$15.78
• 3 sheets of gypsum	\$82.08
 Total.....	 <u>\$2343.32</u>

The landlords are only seeking \$1000.00 of that total amount.

Carpet

9. Landlord1 stated that after the tenant moved out, he discovered that the living room carpet was torn up and full of holes, and he figured this damage was caused by the tenant's pets. That carpet has not been replaced, and the landlords submitted no receipts or quotes for the costs of replacement. That carpet was 6 years old when tenant moved in in 2015.

Electric range

10. Landlord1 stated that there was a glass top on the stove that the tenant was supplied with, and when they regained possession of the unit, they found that the stovetop was burnt up. That stove was not replaced and no quotes or receipts were submitted with the landlords' application. Landlord2 stated that they sold the unit, "as is", after the tenant moved out, and no repairs were carried out. She

also claimed that her realtor told her that because of the damage caused by the tenant, they had lost \$20,000.00 on the purchase price of the house.

Painting and plastering

11. Landlord1 stated that the rental unit was last painted in 2013, 2 years before the tenant moved in. Although some plastering and painting had to be carried out after the tenant moved out in 2021, the landlords never carried out that work, and they did not purchase any of the supplies listed on their itemized breakdown.

Wall plates, door knobs, door handles

12. Landlord1 stated that 6 wall plates were missing when they regained possession of the unit. They have not been replaced and no quotes or receipts were submitted for the costs the landlords are seeking here. Landlord1 also stated that 3 closet door knobs and 2 door handles were missing. They were not replaced either.

The Tenant's Position

Carpet

13. The tenant stated that the carpet was already quite old when she moved into the property and she pointed out that she lived there for 6 years. She argued that the carpet has to be replaced anyhow and she should not be held accountable.

Electric range

14. The tenant acknowledged that there was a fire at the unit, because sparks were coming out of the stove, and that the fire department had to be called. She was ordered to have the stove repaired and the following day she had called an electrician to visit her unit.

Painting and plastering

15. The tenant stated that she did not believe that she should have to pay to have the unit repainted.

Wall plates, door knobs, door handles

16. The tenant stated that she had left these wall plates behind at the unit when she moved out, and they only needed to be reattached to the walls. Likewise for the door knobs and door handles.

Analysis

17. Under Section 10.(1)2. of the *Residential Tenancies Act, 2018* the tenant is responsible to keep the premises clean and to repair any damage caused by a willful or negligent act.

2. *Obligation of the Tenant* - The tenant shall keep the residential premises clean, and shall repair damage caused by a willful or negligent act of the tenant or of a person whom the tenant permits on the residential premises.

Accordingly, in any damage claim, 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)

In accordance with Residential Tenancies policy 9-3, the adjudicator must consider depreciation when determining the value of damaged property. Life expectancy of property is covered in Residential Tenancies policy 9-6.

Under Section 47 of the *Act*, the director has the authority to require the tenant to compensate the landlord for loss suffered or expense incurred as a result of a contravention or breach of the *Act* or the rental agreement.

Order of director

47. (1) After hearing an application the director may make an order

- (a) *determining the rights and obligations of a landlord and tenant;*
- (b) *directing the payment or repayment of money from a landlord to a tenant or from a tenant to a landlord;*
- (c) *requiring a landlord or tenant who has contravened an obligation of a rental agreement to comply with or perform the obligation;*
- (d) *requiring a landlord to compensate a tenant or a tenant to compensate a landlord for loss suffered or expense incurred as a result of a contravention of this Act or the rental agreement*

18. The landlords stated at the hearing that none of the listed repairs were carried out by them, and they did not purchase any of the materials listed here. Furthermore, no estimates were submitted to corroborate the costs they seeking here, and as they have since sold the unit, these repairs will not be undertaken by them at any future point.

19. Landlord2 claims that because of these damages, the landlords lost \$20,000.00 on the purchase price of the house. However, no evidence was presented at the hearing to corroborate that claim either.
20. For these reasons, the landlords' claim does not succeed.

Issue 2: Compensation for Inconvenience – \$500.00

Relevant Submissions

The Landlords' Position

21. Landlord1 stated that the tenant had left a significant amount of garbage at the unit after she moved out, and they were required to rent a dumpster, for 2 days, at a cost of \$500.00. He also testified that they had hired 2 people to remove that garbage, and they were paid \$200.00 each.
22. The landlords submitted no photographs with their application showing the garbage that was left behind, and no receipts were submitted for either the rental of the dumpster or for hiring these workers.

The Tenant's Position

23. The claimed that the garbage that the landlords disposed of belonged to them—this included all the furniture at the property as well as the appliances.

Analysis

24. The landlords submitted no photographic evidence with their application showing that the tenant had left behind any garbage, and they submitted no receipts showing that they had incurred the costs they are claiming here. For those reasons, this claim also fails.

Decision

25. The landlords' claim for compensation for damages does not succeed.

Issue 3: Rent - \$3600.00

Relevant Submissions

The Landlords' Position

26. The landlords submitted a rent ledger with their application (█ #2) showing the payments the tenant had made since July 2020. According to these records, the tenant last had a zero-balance at the end of September 2020, and since that

time, she made only 2 payments—\$1000.00 was paid in January 2021 and \$2600.00 was paid in March 2021.

27. The landlords calculate that the tenant owes them \$3600.00 for the period ending 30 June 2021.

The Tenant's Position

28. The tenant did not dispute the landlords' record of the payments she had made. However, she calculates that she only owes \$1500.00, not \$3600.00.

Analysis

29. It is not disputed that the tenant had only paid total of \$3600.00 in rent since September 2020. As the total amount of rent that was charged from 01 October 2020 through to 30 June 2021 comes to \$7200.00 (9 months x \$800.00 per month), I agree with the landlords that the tenant owes \$3600.00 (\$7200.00 charged in rent less the \$3600.00 paid by the tenant).

Decision

30. The landlord's claim for a payment of rent succeeds in the amount of \$3600.00.

Issue 4: Hearing Expenses

31. The landlords paid a fee of \$20.00 to file this application. As their claim has been successful, the tenant shall pay this hearing expense.

Summary of Decision

32. The landlords are entitled to a payment of \$3620.00, determined as follows:

a) Rent Owing	\$3600.00
b) Hearing Expenses	\$20.00
c) Total Owing to Landlords	<u>\$3620.00</u>

18 November 2022

Date