

Residential Tenancies Tribunal

Application 2022 No. 153NL

Decision 22-0153-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 AM on 14 June 2022 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord", participated in the hearing. The respondent, [REDACTED], hereinafter referred to as "the tenant", was not in attendance.

Issues before the Tribunal

3. The landlord is seeking the following:
 - An order for a payment of \$4500.00 in compensation for damages, and
 - Authorization to retain the \$400.00 security deposit.

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 and rule 29 of the Rules of the Supreme Court, 1986.

Preliminary Matters

6. The tenant was not present or represented at the hearing and I was unable to reach her by telephone. 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 she has been properly served. With his application, the landlord submitted an affidavit stating that tenant had been served with the application, by e-mail, on 04 April 2022, and a copy of that e-mail was also submitted with his application. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in her absence.

Issue 1: Compensation for Damages - \$4500.00

Relevant Submissions

7. The landlord stated that she had entered into a rental agreement with the tenant in 15 March 2017, and with his application he submitted a copy of that executed agreement. The agreed rent was set at \$800.00 per month, and it is acknowledged in this agreement that the tenant had paid a security deposit of \$400.00.
8. At the beginning of December 2021, the landlord visited the rental unit and he stated that he discovered that it was in a very messy state. He stated that he gave the tenant 2 weeks to have it cleaned up, but instead of cleaning the unit, the tenant turned in her keys and she vacated on 17 December 2021.
9. The landlord stated that after he regained possession of the unit, he was required to remove garbage from the property, it had to be cleaned and some repairs had to be carried out. He submitted the following breakdown of the costs he had incurred:
 - Garbage removal \$600.00
 - Cleaning \$400.00
 - Remove and dispose of flooring \$500.00
 - New flooring \$1372.54
 - New baseboards \$254.46
 - New doors \$655.40
 - Labour for installation \$717.55

Total \$4499.95

10. With respect to the garbage removal, the landlord stated that when the tenant moved out she left behind a bed and some furniture, and he complained that these items were heavily soiled with dog and cat urine and feces. The landlord claimed that the tenant had been working 12 hour shifts and she would leave her pets in the unit, with no way of relieving themselves, and they would urinate and defecate on the floors and furniture. Besides the furniture, the landlord also stated that there was a significant amount of garbage left behind and he pointed to his submitted photographs showing that the refrigerator had not been cleaned out and that the cupboards were also full of food. The landlord stated that he

had to make 2 trips to the dump to dispose of this garbage and he claimed that it took him between 4 and 5 hours to complete.

11. With respect to the cleaning, the landlord testified that there was a very bad odour in the unit from the urine and feces. He stated that he had scrubbed the floors and the walls to remove the stains and he had then applied a speciality cleaner to try to remove the odour. Besides the floors, the remainder of the unit had to be cleaned as well, and he claimed that the refrigerator and cupboards were left in a "disgusting" state. He testified that it took 15 hours to complete the cleaning.
12. Despite the fact that he had used special chemicals on the floors to treat the urine odour, the landlord claimed that the bad smell persisted and could not be removed. He stated that there was no way he would have been able to put new tenants in that apartment with that smell and he was therefore required to remove all the flooring in the apartment, as well as the baseboards. He stated that it took approximately 5 or 6 hours to remove that flooring and take it to the dump.
13. The landlord testified that this flooring was installed just before the tenant moved in in 2017. With his application, he submitted receipts showing that he had purchased new flooring at a cost of \$1372.54 and new baseboards at a cost of \$254.46. The landlord stated that he installed the floors and baseboards himself and he testified that it took him approximately 20 hours to carry out that work.
14. The landlord also complained that 2 closet doors were covered in feces and there was also a bad smell coming from them which could not be removed, and they therefore had to be replaced. He pointed to his submitted photographs showing these doors and pointed out that they were soiled on the bottom area. He pointed to a second photograph showing that the steel entrance door had a split running down it which he stated was caused when the tenant kicked it in. The closet doors and the entrance door were both installed in 2017, and the landlord submitted a receipt with his application showing that he was charged \$655.45 for replacements. He stated that it took him about 30 minutes to rehang each of these new doors.

Analysis

15. 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 wilful 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*

16. The evidence submitted by the landlord clearly shows that the unit was left in a very poor condition when the tenant vacated. That evidence shows that there is a significant amount of garbage left behind and that the unit required extensive cleaning. I also accept the testimony of the landlord concerning the fact that the tenant had allowed pets to urinate and defecate on the floors, baseboards, doors and furniture causing there to be a bad odour at the property. I also accept his claim that this odour could not be removed, necessitating the replacement of the floors and 2 closet doors.
17. Policy with this Section is that applicants may claim up to \$21.20 per hour in compensation for their personal labour. I accept the landlord's claim that it took him 5 hours to remove the garbage from the property and that he had spent another 15 hours cleaning. Hence, those claim succeed in the amounts of \$106.00 and \$318.00, respectively.

18. Regarding the flooring and the baseboards, I agree with the landlord that these items had to be replaced because of the damage caused by the tenant's pets. Good quality laminate floors have an expected life span of 10 years, and they had approximately another 6 years remaining when the tenancy ended. Accordingly, for the costs of removing, installing and replacing these floors and baseboards, I find that the landlord is entitled to an award of \$1294.20 (\$530.00 for compensation for 25 hours of labour for the removal and installation, \$1372.54 for new floors, and \$254.46 for replacement baseboards, x 6/10 depreciation).
19. Regarding the closet doors, I accept the landlord's claim these also had to be replaced as a result of the mess caused by the tenant's pets, and the landlord's evidence also shows that the entrance door was split and needed replacing. Interior closet doors have an expected life span of 20 years, while steel doors can last up to 15 years. Accordingly, I find that the landlord is entitled to \$113.55 for the costs of replacing the closet doors (\$120.74 for closet doors + \$21.20 labour to rehang x 16/20 depreciation) and \$399.90 for the steel exterior door (\$534.72 for new door + \$10.60 for labour x 11/15 depreciation).

Decision

20. The landlord's claim for compensation for damages succeeds in the amount of \$2231.65, determined as follows:

| | |
|-------------------------------------|------------------|
| • Garbage removal | \$106.00 |
| • Cleaning | \$318.00 |
| • New flooring and baseboards | \$1294.20 |
| • New closet doors..... | \$113.55 |
| • New steel door | \$399.90 |
| Total..... | <u>\$2231.65</u> |

Issue 2: Security Deposit

21. With his application, the landlord submitted a receipt showing that the tenant had paid a security deposit of \$400.00 on 15 March 2017. As the landlord's claim has been successful, he shall retain that deposit as outlined in this decision and attached order.

Summary of Decision

22. The landlord is entitled to the following:

a) Compensation for Damages \$2231.65
b) LESS : Security Deposit..... (\$400.00)
c) Total Owing to Landlord..... \$1831.65

20 September 2022

Date

John R. Cook
Residential Tenancies Tribunal