

Residential Tenancies Tribunal

Application 2022-No.362-NL

Decision 22-0362-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 1:47 p.m. on 28-June-2022.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondents, [REDACTED] and [REDACTED], are represented by [REDACTED] hereinafter referred to as “the tenant” he attended by teleconference

Preliminary Matters

4. The landlord submitted an affidavit (LL#01) saying she served the tenants with notification of the hearing electronically to the email they provided. The tenant confirmed notification of the hearing.

Issues before the Tribunal

5. The landlord is seeking:
 - Rent \$2,100.00
 - Compensation for damages \$1,371.21
 - Security deposit applied against monies owed \$1,350.00
 - Hearing expenses \$20.00

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
7. Also relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 10: Statutory conditions, Section 14: Security deposit, and Section 32: Abandoned personal property.

Issue 1: Rent \$2,100.00

Landlord's Position

8. The landlord submitted the rental agreement with the tenants (LL#02). They had a term agreement from 10-September-2021 until 31-August-2022. The rental period is from the first day of each month until the last. Rent is \$1,800.00 due in full on the first day of each month. The tenants paid a security deposit of \$1,350.00 and the landlord is still in possession of the deposit.
9. The landlord served the tenants notice for failure to pay rent (LL#03) on April 24, 2022 with a termination date of 05-May-2022. The landlord said that the power was cut to the home on 11-May-2022, due to non-payment, by the utility company. The tenants picked up their belongings on 20-May-2022.
10. The landlord provided a rent ledger (LL#04). The payments were frequently late and was often paid in installments. She said that the tenant did not pay his \$1,800.00 rent on the first of April or May. They did make two payments since her submission on \$1,100.00 on 06-May-2022 and \$400.00 on 20-May-2022. See below:

Date	Action	Amount	total
1-Apr-22	rent due	1800.00	1800.00
1-May-22	rent due	1800.00	3600.00
6-May-22	payment	1100.00	2500.00
20-May-22	payment	-400.00	2100.00

11. The landlord is seeking rent until the end of May.

Tenant's Position

12. The tenant agrees to the details of the rental agreement, as stated by the landlord. He said that his family moved on 11-May-2022 and returned to pick up some of their belongings on 20-May-2022.
13. The tenant agrees to the amount of rent owed.

Analysis

14. There is no dispute, the tenant acknowledges that he owes the landlord rent in the amount of \$2,100.00

Decision

15. The landlord's claim for rent succeeds in the amount of \$2,100.00.

Issue 2: Compensation for damages \$1,371.21

Landlord's Position

16. The landlord said that there was no damage to the house but the tenants hadn't removed all of their belongings. She said that they had to remove the remaining belongings and brought them to the dump. She said that she gave him until the end of the month to remove his stuff and then she told him she would hire someone and have it brought to the dump. She said she didn't seek permission from this board; she spoke with the tenant and accepted his verbal confirmation; she then had the belongings removed.
17. The landlord is also claiming 16 personal hours at \$18.20 totaling \$291.20, for cleaning up and taking the belongings to the dump. The landlord provided a video (LL#07) which was taken prior to the tenants moving, on 17-May-2022 to indicate the condition of the home.
18. The landlord said that she paid a company to have the house cleaned. She provided a receipt (LL#05) from Lisa Anthony Cleaning Services for \$301.88.
19. The landlord said that there were ants in the house and that there was food left in the kitchen. They had to pay to have them destroyed. She provided a Terminix Canada receipt (LL#06) for \$431.25.
20. The landlord said that they paid someone \$300.00 to have the sectional removed and thrown out. She wasn't given a receipt.

Tenant's Position

21. The tenant said that he had returned to work and that he was working 12 hour days. He couldn't make arrangements to get the last of their belongings and that the landlord told him he had 3 days to collect his stuff or it would be brought to the dump. The tenant said he had no options, so he agreed.
22. The tenant said that there were ants around the door. He said that perhaps after they left they may have gotten inside. He disputes that this is their responsibility.
23. The tenant disputes the video which was taken prior to them moving. He said that most of the things in the video they had moved.

Analysis

24. 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.

Statutory conditions

10. (1) Notwithstanding an agreement, declaration, waiver or statement to the contrary, where the relationship of landlord and tenant exists, there shall be considered to be an agreement between the landlord and tenant that the following statutory conditions governing the residential premises apply:

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.

25. The landlord said that there was no damage to the home and that the claim is in relation to removing the tenants' belongings that were left behind and then cleaning the home.
26. The landlord said that the home was left dirty and that food was open in the kitchen area, she is claiming for her and her husband's personal time of \$291.20, a cleaning service \$301.88 and the cost to have ants terminated \$431.25. The tenant confirmed that he was working long hours and didn't have the resources to complete the move. I accept that this left a lot of work for the landlords to complete, to ready the home for new renters. It is the responsibility of the tenants to leave the house in the same condition as when they first took occupancy. The landlord provided receipts for the professional services that they used and she is within the accepted amount of hourly wages for personal time. Her claim for these expenses succeeds in the amount of \$1,024.33, as follows:

Personal time	\$291.20
Cleaning service	301.88
Terminator	<u>431.25</u>
Total	<u>\$1,024.33</u>

27. The landlord is also seeking the cost of \$300.00 to have furniture removed from the house and disposed of. According to Section 32 of the Residential Tenancies Act, 2018:

Abandoned personal property

32. (1) Where a tenant abandons or vacates a residential premises and leaves personal property on the residential premises, the landlord shall either

*(a) remove the personal property and **immediately place it in safe storage**; or*

*(b) **store** the personal property on the residential premises **in a safe manner**.*

*(2) The personal property stored under subsection (1) shall be stored for **not less than 30 days** unless the tenant takes possession of the personal property before the 30 days have elapsed.*

(3) A landlord who stores a tenant's personal property under subsection (1) shall, at the earliest reasonable opportunity,

(a) provide the director with an inventory of the property; and

(b) provide the tenant with a copy of the inventory, if the landlord can locate the tenant.

(4) The director may, on application by the landlord under section 42, authorize the landlord to dispose of personal property referred to in subsection (1) where the director believes on reasonable grounds that

*(a) the personal property **has no monetary value**;*

(b) the cost of removing, storing or selling the personal property would be more than the proceeds of the sale; or

(c) the storage of the personal property would be unsanitary or unsafe.

*(5) This section does not apply where a landlord and a tenant have made an **agreement in writing** with respect to the storage of the tenant's personal property.*

.....

28. The landlord disposed of the tenants' property in a manner of complete disregard to the tenants' and their belongings. The landlord specifically mentioned a sectional sofa which was shown in her evidence video (LL#07). In the video the sectional sofa appeared to be in good condition. The tenant stated he had no options and therefore agreed to the removal of his belongings. It was the responsibility of the landlord to hold the tenants belongings for 30 days before taking any further action. The landlord will not be compensated for the disposal of the tenants' belongings.

Decision

29. The landlord's claim succeeds in the amount of \$1,024.33.

Issue 3: Security deposit applied against monies owed \$1,350.00

Landlord's Position

30. The landlord is seeking to retain the security deposit against monies owed.

Tenant's Position

31. The tenant agrees to the security deposit being applied to monies owed.

Analysis

32. The Residential Tenancies Act, 2018, Section 14 states:

Security deposit

14. (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.

33. The tenant is in agreement with the security deposit being applied.

Decision

34. The landlord's claim succeeds in the amount of \$1,350.00.

Issue 4: Hearing expenses reimbursed \$20.00

35. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#08) and pursuant to policy 12.01, is entitled to reimbursement of that cost from the tenant.

Summary of Decision


36. The tenant shall pay the landlord \$1,794.33, as follows:

Rent	\$2,100.00
Compensation for damages	1,024.33
Hearing expenses	20.00
Security deposit applied	<u>(1,350.00)</u>
Total	<u>\$1,794.33</u>

37. The landlord shall retain the security deposit of \$1,350.00 against monies owed.

July 6, 2022

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office