

Residential Tenancies Tribunal

Application 2022 No. 380 [REDACTED]
Application 2022 No. 568 [REDACTED]

Decision 22-0380-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:10 AM on 14 July 2022 via teleconference.
2. The applicant [REDACTED], hereinafter referred to as “the tenant”, participated in the hearing. The respondent, [REDACTED], hereinafter referred to as “the landlord”, was also in attendance.

Issues before the Tribunal

3. The tenant is seeking the following:
 - An order for refund of security deposit in the amount of \$700.00.
4. The landlord is seeking the following:
 - An order for a payment of \$640.14 in compensation inconvenience;
 - An order for a payment of “other” expenses totaling \$455.00; and
 - Authorization to retain the \$700.00 security deposit.

Legislation and Policy

5. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
6. Also relevant and considered in this case are section 14 of the *Residential Tenancies Act, 2018* and policies 9-3: Claims for Damage to Rental Premises and 9-5: Life Expectancy of Property.

Issue 1: Compensation for Damages - \$640.14

Relevant Submissions

The Landlord's Position

7. The tenant entered into a 1-year, fixed-term lease with [REDACTED] on 01 July 2014, and a copy of that executed agreement was submitted with her application ([REDACTED] #1). The rent at that time was set at \$700.00 per month, and it is acknowledged in the lease that the tenant had paid a security deposit of \$700.00. The landlord purchased the property on 01 April 2022 and the tenant moved out at the end of that month.
8. The landlord stated that during her tenancy, the tenant had caused some damages to the rental property which she was required to repair after she moved out, and with her application she submitted the following breakdown of the costs to carry out repairs ([REDACTED] #1):

| | |
|--------------------------|------------------|
| • 2 interior doors | \$227.63 |
| • Vinyl flooring | \$168.79 |
| • Paint supplies..... | \$362.87 |
| • Baseboards..... | \$6.29 |
| • Door casing..... | \$29.23 |
| • French door..... | \$224.60 |
| • Labour..... | \$320.00 |
| Total..... | <u>\$1339.41</u> |

2 Interior doors

9. The landlord pointed to 3 photographs ([REDACTED] #2) that she had submitted with her application showing that there were holes in 2 bedroom doors in the rental unit, and she speculated that these holes had been caused by someone punching them. She testified that she replaced these doors at a cost of \$227.63, but no receipt was submitted with her application. The landlord stated that these doors were 15 years old when the tenancy ended.

Vinyl flooring

10. The landlord stated that she was also required to replace the vinyl flooring in both the porch and the bathroom and she pointed to her receipts ([REDACTED] #1) showing that she was charged \$168.79 for new floors for those rooms. The landlord complained that these floors were in bad condition, that they were torn in places, and they were also peeling up. She also complained that there was some trim missing in the bathroom where the vinyl floor met the bathtub. The landlord stated that these floors were 15 years old.

Painting

11. The landlord stated that during her tenancy, the tenant had hung pictures and shelves on the walls, as well as stickers, and when she removed these items, she had left holes in the walls. In support of her claim, the landlord pointed to 4 of her submitted photographs showing the condition of these walls after the tenant moved out. The landlord claimed that the whole apartment needed to be repainted, and her submitted receipts show that she had spent \$362.87 in painting supplies. The landlord did not know when the unit was last painted and she did not know the condition of these walls when the tenancy began in 2014.

Baseboards

12. The landlord claimed that there were some pieces of baseboard missing in the bedrooms and she had to purchase a new piece of baseboard to carry out the repairs. She is seeking \$6.29, but no receipt was submitted with her application.

Door casing

13. The landlord pointed to 2 photographs showing that 2 door casings had cracks in them and she testified that she replaced them at a cost of \$29.23. No receipt was submitted with her application.

French door

14. The landlord also complained that she had to replace a French door in the apartment, and she pointed to 3 other photographs showing that door. She stated that this door was “cracked up” and she suspected that this damage had been caused by the tenant’s pets.

Labour

15. The landlord stated that it took 16 hours to replace the floors and doors, and to have the unit repainted, and she is seeking \$320.00 in compensation.

The Tenant’s Position

2 Interior doors

16. The tenant acknowledged that the holes in these doors were put there during her tenancy and she stated that she took responsibility for the costs of replacement.

Vinyl flooring

17. With respect to the floors, the tenant claimed that the damage noted by the landlord should be regarded as normal wear and tear, given that these floors were 15 years old. Regarding the floor in the bathroom, the tenant argued that

they did not need to be replaced and that a single piece of baseboard would solve the issue with the peeling.

Painting

18. The tenant claimed that the apartment had not been painted before she moved in in 2014 and no painting was carried out during her 8 year tenancy. She also questioned whether all of the receipts submitted by the landlord were purchases for her apartment, or whether they were for supplies for painting the upstairs unit, where the landlord resides.

Baseboards

19. The tenant claimed that the baseboards were already damaged when she moved into the unit in 2014.

Door casing

20. The tenant acknowledged that that these door casings were damaged during her tenancy.

French door

21. With respect to this French door, the tenant pointed out that no renovations were carried out during her 8 year tenancy and no painting was done during that time, either. The tenant argued that if there was any damage caused to this door, it ought to be attributed to everyday wear and tear given the length of her tenancy.

Analysis

22. 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

23. Regarding the floors and the painting, I find that the landlord's claim for these items does not succeed. According to policy 9-5, good quality vinyl floors have an expected lifespan of 10 years, while it is expected that a landlord would have to repaint a rental property every 3 to 5 years. Given that these floors were 15 years old, and given that it had been over 8 years since the unit was painted, these were costs that the landlord would have incurred anyhow as part of the regular maintenance of her property.
24. With respect to the baseboards, the landlord presented no evidence (e.g., an incoming condition report) establishing that they were damaged by the tenant during her tenancy, and it was her contention, which I accept, that they were already damaged when she moved in. I also agree with the tenant that, as no painting, or other renovations, had been carried during her tenancy, the damage to the French door ought to be chalked up to normal wear and tear.
25. This leaves the door casings and the 2 colonial doors. The tenant acknowledged that she had caused this damage during her tenancy and she accepted responsibility for the costs of replacing these items. The landlord had claimed \$227.63 for the doors and \$29.23 for the casing, and I will allow a further \$80.00 for 4 hours of labour to carry out that work. Interior doors and door casings have an expected lifespan of 20 years, so the landlord's award has to be depreciated accordingly. I therefore find that she is entitled to a payment of \$84.22 $((\$227.63 + 29.23 + \$80.00) \times 5/20)$.

Decision

26. The landlord's claim for compensation for damages succeeds in the amount of \$84.22.

Issue 2: "Other" Expenses - \$455.00

Relevant Submissions

The Landlord's Position

27. \$320.00 of this portion of the landlord's claim concerns cleaning that she was required to carry out after the tenant moved out. The remaining \$135.00 concerns the costs of printing documents, which I consider as hearing expenses, which is addressed in section 3, below.
28. The landlord stated that she had to clean out the inside of all of the kitchen cupboards, and she had to wash down the shelves, ledges, walls and baseboards in the apartment. She also claimed that the whole bathroom required cleaning and she complained that there was a smell of pet urine in the stairwell by the entrance.
29. In support of her claim the landlord pointed to 6 photographs submitted with her application showing the conditions of some walls, the bathroom vanity, and 2 spots of dirt on the floors.

The Tenant's Position

30. The tenant testified that she had spent a full day and a half cleaning the apartment before she vacated, and she claimed that it was very clean. She also claimed that when she returned the keys, the landlord had told her that the apartment was very clean and it smelled very nice.
31. The tenant testified that she had cleaned out all the cupboards, that she had washed the floors and cleaned the bathroom, though she acknowledged that she may have overlooked the inside of the bathroom vanity and the porch closet.
32. With her application, the tenant submitted 22 photographs showing the condition of the property on 29 April 2022.

Analysis

33. I was not persuaded that the landlord is entitled to compensation for 16 hours of cleaning. The photographs submitted by the tenant show that she had left the unit in a very clean state and based on that evidence, I was not persuaded that

any walls, ledges or shelves needed any cleaning, and these photographs also show that the bathroom was clean too.

34. The landlord's photographs do show that the walls need to be painted, but this is something that the landlord needs to address anyhow, as I determined above. I cannot discern any dirt in those photographs.
35. The tenant acknowledged that she had overlooked the inside of the bathroom vanity and the inside of the porch closet, and her photographs show that there are 2 small spots on the floor that need cleaning. I find that the landlord is entitled to compensation for 2 hours of her personal labour to address these items—\$40.00.

Decision

36. The landlord's claim for the costs of cleaning succeeds in the amount of \$40.00.

Issue 3: Hearing Expenses

37. The tenant claimed that she had paid \$20.00 to file this application. Policy with this Section is that the party that receives an award shall have their expenses awarded also. As the tenant's application has been successful, the landlord shall pay her hearing expenses. However, the tenant did not provide a receipt with her application showing that she had paid the \$20.00 filing fee, and I was unable to find any internal record of that payment. As such, her claim for hearing expenses does not succeed.


Issue 4: Security Deposit

38. The tenant paid a security deposit of \$700.00 in 2014 and receipt of that deposit is acknowledged in the submitted rental agreement. That deposit shall be disposed of as follows:

| | |
|---|-----------------|
| a) Refund of Security Deposit | \$700.00 |
| b) LESS: Compensation for Damages | (\$84.22) |
| c) LESS: Cleaning..... | (\$40.00) |
| Total Owing to Tenant..... | <u>\$575.78</u> |

14 October 2022

Date


John R. Cook
Residential Tenancies Tribunal