

## Residential Tenancies Tribunal

Applications 2022 No. 0555 NL  
2022 No. 0597 NL

Decision 22-0555-00

Jaclyn Casler  
Adjudicator

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### Introduction

1. The hearing was called at 9:02 AM on 13 September 2022 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "tenant1", participated in the hearing. The applicant, [REDACTED], hereinafter referred to as "tenant2", also participated in the hearing.
3. The respondent, [REDACTED], as represented by [REDACTED] [REDACTED], hereinafter referred to as "the landlord", participated in the hearing. [REDACTED] [REDACTED], hereinafter referred to as "the property manager" also participated in the hearing.
4. An affidavit of service was provided by the tenants (T#1) confirming that the landlord was served electronically of the claim against him and proof of service was provided (T#2). The landlord also provided an affidavit confirming service to the tenants (L#1) and proof of service was provided (L#2).
5. The details of the claim were presented as an originally fixed term 12 month tenancy that started 01 May 2021, for which a written rental agreement was provided (L#3). This agreement was then terminated, with advanced notice, by the tenants on 30 May 2022 because they left the province. Monthly rent was set at \$882.00 exclusive of utilities and a \$500.00 security deposit was collected in April 2021.
6. In a proceeding under the *Residential Tenancies Act*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicants have to establish that their account of events is more likely than not to have happened.

## **Issues Before the Tribunal**

7. The tenants are seeking the full return of the \$300.00 remaining from the originally \$500.00 security deposit.
8. The landlord is seeking an order to retain \$300.00 of the \$500.00 security deposit collected from the tenant.

## **Legislation and Policy**

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
10. Also relevant and considered in this case is sections 10 and 14 of the *Residential Tenancies Act, 2018* and Residential Tenancies Policy 09-005 Life Expectancy of Property.

## **Preliminary Matters**

11. The tenants were provided with a partial return of their security deposit within a month of vacating the rental premises. They submitted proof of the \$200.00 security deposit refund cheque received (T#3). The landlord acknowledged this.

### **Issue 1: Security Deposit (\$300.00)**

#### Tenants' Position

12. The tenants would like the remaining \$300.00 of their \$500.00 security deposit returned. Tenant1 testified that the landlord did not provide receipts or other documentation related to his claim against her security deposit when she was provided with the \$200.00 cheque referenced in paragraph 11. Tenant1 testified that she cleaned "but did not wash" the rental premises because it is not her responsibility as the tenant "to prepare the rental premises for new tenant".
13. Tenant1 summarized her testimony by stating that there was "no damage" in the rental premises and that she left the rental premises in the same state in which she took possession of it.

#### Landlord's Position

14. The property manager referred to the move in/move out condition inspection report that was submitted (L#4). She testified that she conducted an inspection on move in and on move out with the tenants. She also testified that she provided the tenants with documentation prior to this move out inspection, on expectations for cleaning on move out. The property manager testified that tenant1 refused to sign the move out condition inspection report.

15. The property manager testified that a cleaner was hired to complete a move out clean because the tenants “vacuumed the floor” but otherwise did not clean. The property manager testified that this was a 4 hour clean by one person and the landlord provided proof of an accounting program receipt (L#5) as well as a cancelled cheque that was written to the property manager so that she could pay the cleaner in cash (L#6). No photos or video of the rental premises on move in or move out were provided.

## **Analysis**

16. The tenants are requesting that the remaining \$300.00 of their \$500.00 security deposit be returned, and the landlord has applied to keep the \$300.00 as compensation for cleaning. According to section 14, sub 10, 12 and 14 of the *Residential Tenancies Act, 2018*:

*(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.*

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*(12) A landlord who does not make an application in accordance with subsection (11) shall return the security deposit to the tenant.*

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*(14) Where a landlord does not make an application under subsection (11), he or she is not prohibited from making an application under section 42 other than an application with respect to a claim against the security deposit.*

17. Regarding the requirement for cleaning after the tenants vacated the rental premises, I accept the landlord’s evidence and property manager’s testimony that a cleaner was hired to conduct a full clean of the rental premises. I also accept tenant1’s testimony that she “cleaned” but “did not wash” as further proof of the requirement for cleaning after the tenants vacated the rental premises. According to 10(1)(2) of the 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.*

18. Where tenant1 testified that in paragraph 13 that she left the rental premises in the same state that she acquired the premises, she did not submit any supporting photographic or other evidence of the state of the rental premises on move in, or move out, to support her claim. As such, I was not able to establish whether or not the tenants' satisfied their obligations for maintaining the rental premises under the *Act*.
19. Consequently, I find that the landlord is entitled to compensation for damages for the cleaning that was required. Where the property manager testified that 4 hours of cleaning was required by a single person, Residential Tenancies Policy 09-005 identifies the maximum hourly rate for cleaning to be \$21.20 an hour. As such, I find that the landlord's claim for compensation for cleaning succeeds in the amount of \$84.80 (e.g., 4 x \$21.20) and not the \$300.00 that was claimed.

### **Decision**

20. The landlord's claim for compensation for damages for cleaning succeeds in the amount of \$84.80.
21. The tenants' claim for the return of their security deposit succeeds in the amount of \$215.20.
22. The landlord shall return \$215.20 of the security deposit to the tenants.

13 September 2022

Date

Jaclyn Casler  
Residential Tenancies Tribunal