

Residential Tenancies Tribunal

Application 2022-0591-NL

Decision 22-0591-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 2:03 p.m. on 14-November-2022.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as “landlord1 and landlord2” attended by teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “tenant1 and tenant2” attended by teleconference.

Preliminary Matters

4. The landlords had served the tenants by pre-paid registered mail, however, it was outside of the 10 day time frame. They also served electronically to the tenants phone numbers on 01-November-2022, the tenants confirmed this service, as this provides the tenants with more than 10 days’ notice, we proceeded with the hearing.

Issues before the Tribunal

5. The landlords are seeking:
 - Rent \$2,200.00
 - Utilities \$382.08
 - Compensation for damages \$300.00
 - Other/garbage disposal \$100.00
 - Security deposit applied against monies owed \$400.00
 - 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 Residential Tenancies Policy 9: Compensation for damages.

Issue 1: Rent \$2,200.00

Landlord's Position

8. Landlord2 said that the rental agreement began 01-January-2021 and the tenants moved out 19-April-2022. The tenants pay \$1,100.00 on the first day of each month. The landlord said that the tenant paid a security deposit of \$400.00 on 08-December-2020 and the landlord is still in possession of the deposit. The landlord said that shortly after they moved in they began paying rent every two weeks.
9. Landlord2 said that the tenant texted him at 1:40 p.m. on 19-April-2022 and said that they are moved out and he had left the keys on the counter. Landlord1 said she arrived there at 2:55 p.m.
10. The landlord's submitted rent ledgers (LL#03 & LL#04) as follows:

Date	Action	Amount	total
1-Aug-21	Rent due	1100.00	1100.00
4-Aug-21		payment	-550.00
1-Sep-21	Rent due	1100.00	1650.00
20-Sep-21		payment	-1100.00
1-Oct-21	Rent due	1100.00	1650.00
5-Oct-21		payment	-550.00
20-Oct-21		payment	-550.00
1-Nov-21	Rent due	1100.00	1650.00
2-Nov-21		payment	-550.00
16-Nov-21		payment	-550.00
1-Dec-21	Rent due	1100.00	1650.00
14-Dec-21		payment	-550.00
24-Dec-21		payment	-550.00
1-Jan-22	Rent due	1100.00	1650.00
11-Jan-02		payment	-550.00
26-Jan-22		payment	-550.00
1-Feb-22	Rent due	1100.00	1650.00
8-Feb-22		payment	-550.00
22-Feb-22		payment	-550.00
1-Mar-22	Rent due	1100.00	1650.00
1-Apr-22	Rent due 1/2 month tenants moved April 19	550.00	2200.00

11. Landlord2 said that although the tenants were there until 19-April-2022 they only charged ½ a month's rent. They are seeking full reimbursement of rent owed, totaling \$2,200.00.

Tenant's Position

12. Tenant1 agrees to the rental agreement as stated. Tenant2 said she moved on 04-April-2022 and should have been removed from the rental agreement at that time.
13. Tenant1 acknowledges that they owe the landlord rent as stated. He said he had an accident and is expecting a payout, he intends to pay back the rent that was owed at that time.

Analysis

14. There is no dispute, tenant1 acknowledges they owe rent as stated by the landlord.

Decision

15. The tenant shall pay to the landlord \$2,200.00 for rent owed.

Issue 2: Utilities \$382.08

Landlord's Position

16. Landlord1 states that the rental agreement (LL#02) shows that the tenants are not to allow the oil tank to fall below the reserve. She said that she arrived a little over an hour after the tenant left and that the tank was empty. She said that even the reserves were gone.
17. Landlord1 said that they had the oil company come in and fill the tank. She is seeking 200 ltrs for the $\frac{1}{4}$ of the tank that the tenants were obligated to fill. She said that the oil company charged 1.6612 per ltr for a total of \$382.08. She did not provide a receipt.
18. Landlord2 states that this is a new furnace that has better efficiency than the old furnace and that allowing it to go dry could have caused damages. Landlord2 disputes that the oil tank was $\frac{1}{4}$ full when the tenants left at 1:40 p.m. and burnt enough oil by 2:55 to be completely dry.

Tenant's Position

19. Tenant1 said that the new furnace was smaller and burnt more fuel. He said that the cost he was paying for fuel increased substantially. He said that there was oil in the furnace when he left.

Analysis

20. It is clear from the rental agreement that the tenants are responsible to keep a minimum of $\frac{1}{4}$ tank of oil, and I agree with landlord2 that the tank wouldn't have burnt a $\frac{1}{4}$ tank plus reserves between the time the tenants vacated and the time that the landlords took back possession about 1 $\frac{1}{2}$ hours later. The landlords however, did not submit a receipt and have therefore not provided any evidence to support this claim. I therefore determine that the claim fails.

Decision

21. The landlords' claim for utilities fails.

Issue 3: Compensation for damages \$300.00

Landlord's Position

22. Landlord1 said that there were some damages, however they are seeking compensation for damages for the cleaning of the house. The landlords provided pictures (LL#05) to show that the fridge, stove, bathrooms and the house in general required cleaning.
23. She said that they worked 16 hours personal time at a rate of \$20.00 an hour. They are seeking \$300.00 in compensation for the work they did to clean the house.
24. Landlord1 said that landlord2 was going to pay tenant1 for work to be done around the house. They acknowledge that some areas required work. Landlord1 said that tenant1 didn't do this work. She said that they aren't claiming for this.

Tenant's Position

25. Tenant1 said that he did clean to the best of their ability. He said that their child had done some damage and that there was a broken window.

Analysis

26. 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.

27. The landlords have proven through their photo evidence that the home was not cleaned before the tenants gave back the keys. I accept that the landlords required 16 hours to complete this work. As this tribunal compensates personal labor up to a rate of minimum wage + \$8.00 totaling \$21.70. I accept the landlords' claim of \$300.00 which falls within the approved rate.
28. I find that the landlords' claim succeeds and that the tenants shall pay to the landlord \$300.00 in compensation.

Decision

29. The tenants shall pay to the landlord \$300.00 in compensation for damages.

Issue 4: Other/garbage disposal \$100.00

Landlord's Position

30. The landlords provided evidence of furniture and garbage left behind and required disposal. Landlord1 stated that they paid a gentleman \$100.00 cash and he collected and disposed of everything left behind. They were not provided a receipt.

Tenant's Position

31. Tenant1 acknowledges that there were some belongings left behind that he wasn't physically capable to move and didn't have the available finances to pay someone to do this for him.

Analysis

32. As shown in paragraph 26, Section 10 of the *Act* shows that the responsibility to keep the premises clean is that of the tenant. The landlords however, did not submit a receipt and have therefore not provided adequate evidence to support this claim. I therefore determine that the claim fails.

Decision

33. The landlords' claim for garbage removal fails.

Issue 5: Security deposit applied against monies owed \$400.00

Landlord's Position

34. As per paragraph 8, the landlords have declared that, the tenants paid a security deposit of \$400.00; they are still in possession of that deposit. They are requesting to retain that security deposit towards monies owed by the tenants for damages to the apartment.

Analysis

35. The landlords' claim for loss has been successful, paragraphs 15 and 29, and they shall retain the deposit as per Section 14 of the *Residential Tenancies Act, 2018*, see below:

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

Decision

36. The landlords' claim to retain the security deposit against monies owed succeeds in the amount of \$400.00.

Issue 6: Hearing expenses reimbursed \$20.00

37. 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

38. The tenants shall pay to the landlords \$2,120.00 as follows:

• Rent	\$2,200.00
• Damages	300.00
• Hearing expenses	20.00
• Less security deposit	(400.00)
• Total.....	<u>\$2,120.00</u>

The landlord shall retain the security deposit.

November 18, 2022

Date

Jacqueline Williams, Adjudicator
Residential Tenancies Office