

Residential Tenancies Tribunal

Application 2022-1001-NL

Decision 22-1001-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 1:53 p.m. on 31-May-2023.
2. The applicant, [REDACTED] hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED] hereinafter referred to as “the tenant” attended by teleconference.

Preliminary Matters

4. Both parties confirmed notification of today’s hearing, by our department on 21-April-2023, electronically.
5. There was a previous hearing for these parties: 2022-0604-NL.

Issues before the Tribunal

6. The landlord is seeking:
 - Compensation for damages \$1,081.78

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
8. Also relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 10: Statutory conditions.

Issue 1: Damages \$1,081.78

Landlord's Position

9. The landlord said that she had a written agreement with the tenant, they signed the first term from 01-January-2021 until 01-February-2022 at the conclusion of that term they signed for another term from 01-February-2022 until 01-February-2023. She said that he paid \$550.00 per month for rent and that she, the tenant and another renter shared the cost of utilities equally. The tenant moved 17-July-2022. She explained that he had paid a security deposit of \$412.50 and it was awarded to the tenant in a previous decision.
10. The landlord submitted a damages ledger (LL#01) as follows:

Damage	Cost
Repair holes / paint / installation	\$200.00
Clean	85.00
Shoe rack \$44.97 + tax	51.72
Window and wardrobe	35.39
Furniture repair	660.00
Painting materials	49.67
Total	\$1,081.78

11. The landlord said that there was a "drug incident" and the police were called. She explained that during the incident the tenant damaged his room. She submitted before pictures of the room (LL#02) and then the after pictures (LL#03). In addition to the damages to the walls during the incident, there was also damage from the wall mounted t.v. that the tenant removed when he left. She said that they agreed he could mount the t.v. as long as he repaired the wall when he moved.
12. The landlord also provided pictures (LL#03) after the tenant moved. She said that he didn't fix the holes in the walls, he just painted where it was damaged. She said that the walls were painted 3 years ago. She provided a receipt for the cost of having the room plastered and painted for \$200.00.
13. The landlord confirms she did go into the room after the tenant left, and before the walk through. She thought she would have trouble during the walkthrough and wanted to check the room in advance. She thinks the claim that she would have damaged the room, at that time, is ridiculous.
14. The landlord is also seeking water damage to the furniture. She said that she agreed to the tenant having a fish tank. During the incident, the tenant broke the tank and killed the fish. She said that the water damaged the night stand. She also said that there was water damage to the dresser. Pictures provided (LL#03).

15. The landlord said that the tenant didn't clean the common areas appropriately. She provided pictures of the fridge and the floor in his room, showing that they weren't cleaned. She provided a receipt (LL#07) for the areas to be cleaned. She disputes that the tenant indicates that she could have done this herself instead of paying someone to do this work. She explained to him that it is not her responsibility to clean his mess.
16. The landlord said that she loaned the tenant a shoe rack and he broke in and threw it away. She said she doesn't have any pictures and she forgot to submit the receipt for \$51.72.
17. The landlord submitted video and pictures (LL#03 and LL#08) showing that the hardware on the window and bi-fold closet doors are broken. She claims that the tenant liked his room cool and would leave his window open in the winter months. She is seeking \$35.39 for the supplies to make the repairs; receipt provided (LL#09).
18. The landlord also submitted the cost of the paint (LL#10) required to paint the bedroom, she only provided one receipt \$28.74. She was initially seeking \$49.67.

Tenant's Position

19. The tenant confirms the details of the rental agreement and that there was a previous hearing for this rental.
20. The tenant agrees that there were damages to the walls, he states he fixed the damages and he provides a video (TT#01) showing the room during the walk through after he moved. He states that in the video the blinds are up and when he moved out the blinds were down. He declares that this means that the landlord went into the room after he moved out. He believes that she went in and damaged the walls after he moved so that he would be responsible for repairs.
21. The tenant states that any damages to the furniture should be considered normal wear and tear. He said that the fish tank (TT#02) was small and didn't leak.
22. The tenant said he did clean and that he left some food behind in the kitchen. He said that there was no need for the landlord to pay someone to clean, she could have done this herself. He also said that when he moved in, the previous tenant was not clean and he cleaned the area.
23. The tenant said that the shoe rack wasn't part of his rental agreement. He believed that she gave him the shoe rack and he owned it. He doesn't agree that he should have to pay for it.
24. The tenant said that the landlord accused him of putting up the window in the winter, he disputes this. He said the window and closet were working when he left.

Analysis

25. 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.

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)
26. It is clear from the pictures provided by the landlord that the tenant did damage the walls in his room. The tenant did attempt to correct this damage by painting the areas, I agree with the landlord that this did not properly correct the damages. I completely dismiss the tenant's accusation that the landlord entered his room and damaged the walls in an attempt to have him pay for work to be done, this is beyond reason. The landlord will be fully refunded for the repair \$200.00 and refunded \$28.74 for the paint as this was the only receipt provided.
27. I also accept that the window and closet were not able to close properly as shown in the video. I find the cost of the supplies totaling \$35.39 reasonable and find that the tenant shall reimburse this expense to the landlord.
28. The landlord also has shown that the tenant did not fully clean his room or his shared common space. As shown in Section 10(2) above, this is the responsibility of the tenant and he shall reimburse this cost of \$85.00 to the landlord.
29. The damages to the furniture appear to be wear and tear, the pictures provided show some bubbling but the damage is not clear. Even in the event that the fish tank was broken and the water spilled over the nightstand, this spilling of water shouldn't have caused water damage. I accept the tenant's argument that this is just regular wear and tear. I also accept that the tenant believed the shoe rack was given to him and that he was the owner.
30. The tenant shall pay to the landlord \$349.68, as follows:
- Paint and plaster \$200.00
 - Paint supplies 28.74
 - Cleaning 85.00

- Window and closet hardware 35.39
- Total \$349.68

Decision

31. The landlord's claim for damages succeeds in the amount of \$349.68.

Issue 4: Hearing expenses reimbursed \$20.00

32. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#11) and pursuant to policy 12.01, as the award does not exceed the amount of the security deposit, hearing expenses related to the filing fee will not be awarded.

Summary of Decision

33. The tenant shall reimburse the landlord \$349.68 in compensation for damages.

June 09, 2023

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office