

Residential Tenancies Tribunal

Application 2023-No.0046 -NL

Decision 23-0046-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 10:04 a.m. on 20-February-2023 and reconvened at 12:03 p.m. the same day.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.
3. The respondents, [REDACTED] and [REDACTED], are represented by [REDACTED] [REDACTED], he is hereinafter referred to as "the tenant" [REDACTED] was unable to attend.

Preliminary Matters

4. The landlord submitted an affidavit (LL#01) stating that he had served the tenants on 02-February-2023 with notification of an earlier hearing for 14-February-2023; both parties agreed to the hearing being rescheduled to today's date. The landlord and tenant both confirmed notification and service.
5. The landlord amended his application to decrease compensation for damages from \$634.00 to \$513.21 to reflect the amount due.
6. Security deposit applied against monies owed was removed from the application. The deposit has already been awarded in a previous decision (2022-1105-NL) an appeal of this decision may only be made to the Supreme Court of Newfoundland and Labrador in accordance with Section 50 of the *Residential Tenancies Act, 2018*.

Issues before the Tribunal

7. The landlord is seeking:
 - Rent \$875.00
 - Compensation for damages \$513.21
 - Hearing Expenses \$20.00

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
9. 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 18: Notice of termination of rental agreement.

Issue 1: Rent \$875.00

Landlord's position

10. The landlord submitted a rental agreement (LL#02) with the application. The landlord and tenants entered a written monthly agreement beginning 16-December-2019. The tenants pay \$875.00 a month rent. The original agreement shows \$925.00 for rent however, due to the cost of the power bill and a control button not working on the whirlpool tub, the parties agreed to a reduction in rent to \$875.00. The rental period is from the 1st day of the month until the last day; rent is due the 1st day of each month. The landlord said that the tenant paid a security deposit of \$600.00 on 16-December-2019 and as shown in paragraph 6 this deposit has already been awarded to the tenant (2022-1105-NL). The tenants moved out 30-November-2022.
11. The landlord submitted a rent ledger (LL#03) which indicates that December rent was not paid. The landlord said that the tenants consistently paid rent on time, however they did not give him adequate notice when they decided that they were ending their rental agreement. The landlord submitted the termination notice given to him by the tenants (LL#04). The tenants notified the landlord by text message on 07-November-2022 that they would be moving 01-December-2022. The tenants then agreed they would pay for the week's rent up to 07-December-2022.
12. The landlord responded to the notice (LL#08) with a text that explained that the tenants are to give him a month's notice for the end of a rental period: 31-December-2022. He goes on to say "*I'm not going to make an issue from (sic) it and will accept that you want to vacate on Dec 1st, we've had a great relationship and don't want to sour it at this point.*"
13. The landlord acknowledges that he may not have been clear with his wording but he was expecting the tenants to give him a month to the day, ending 07-December-2022, as they promised to pay the first week's rent; \$197.58.
14. The landlord believes that he is entitled to the full month's rent but is requesting the payment of the promised week's rent totaling \$197.58.

Tenant's position

15. The tenant confirms the details of the rental agreement as stated by the landlord.

16. The tenant confirms that he did give notice in a text message. He said that he did offer to pay the week's rent for 01-07 December. He said because the landlord appeared to agree in the text to them moving, he stayed up all night getting everything out of the house so that they would be moved by 30-November-2022.
17. He thought that the landlord wasn't expecting the payment of the week's rent.

Analysis

18. The landlord is correct that the tenant is expected to give one month's written notice for the end of a pay period. See Section 18 of the *Residential Tenancies Act, 2018*, below:

Notice of termination of rental agreement

18. (1) A tenant shall give the landlord notice that the rental agreement is terminated and the tenant intends to vacate the residential premises

(a) not less than 7 days before the end of a rental period where the residential premises is rented from week to week;

(b) not less than one month before the end of a rental period where the residential premises is rented from month to month; and

(c) not less than 2 months before the end of the term where the residential premises is rented for a fixed term.

.....

(5) Notwithstanding subsections (1) to (3), a notice of termination is not required to be given where a landlord and a tenant agree in writing to terminate the rental agreement on a specific date.

.....

19. The submitted text messages indicate to both myself and the tenant that the landlord is accepting of the notice and does not seek payment for the week's rent. The wording: "*I'm not going to make an issue from (sic) it and will accept that you want to vacate on Dec 1st, we've had a great relationship and don't want to sour it at this point.*" Indicates that the tenant can vacate on December 01st without further issue.
20. As the tenant has moved by the end of the November rental period and as the landlord's response indicates he accepts the notice; I find that the claim for rent fails.

Decision

21. The landlord's claim for rent fails.

Issue 2: Compensation for damages \$513.21

Landlord's position

22. The landlord submitted a breakdown (LL#05) of the costs to clean and repair damages to the house after the tenants moved, as follows:

Date	Landlord and wife personal hours @ \$21.70	total
Jan 12	4.5 hours x 2	195.30
Jan 20	5 hours x 2	217.00
Feb 10	2 hours x 1	43.40
	Supplies \$57.51	57.51
	Total	\$513.21

23. The landlord said that the house was dirty and required cleaning. He said that he and his wife spend 21 hours cleaning to ready the house for new renters. He provided a text with the tenant (LL#06) from 18-December-2022 where he explains that they will require the security deposit to clean the house.

24. The landlord acknowledges that he witnessed the tenants cleaning the house prior to moving, however, he said that there were a lot of areas that were not cleaned and this work had to be done before the house could be shown. The landlord submitted a folder of pictures (LL#12) showing the areas that required cleaning.

25. The landlord's picture folder included 181 pictures. Each picture showed close ups of the dirt. The areas were all through the house and included inside cupboards, baseboards, windows, flooring, the washroom, inside appliances, etc. He also showed damages of screw holes in the walls, spray foam sprayed around baseboards and heaters to keep spiders out, etc. The landlord's picture folder also showed the areas after the cleaning was completed.

26. The landlord submitted two receipts (LL#10 and LL#11) Home Hardware \$43.42 and Dollarama \$14.09 for the cost of supplies totaling \$57.51 that were required for the cleaning and repairs.

Tenant's position

27. The tenant provided pictures that show that the house was cleaned out of all his belongings and garbage (TT#01). His pictures were general shots of the rooms in the house.

28. The tenant said that he did clean and that the landlord had come by and seen them cleaning. He acknowledges they always had issues with the washroom, and some of the areas were older and he couldn't remove the dirt.

Analysis

29. Section 10 of the *Residential Tenancies Act, 2018* states:

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.

30. I accept that the tenants tried to clean the house. It is clear from the submitted pictures that they took care to remove their belongings and that the house appeared tidy and empty after they moved. The landlord's pictures however show that dirt was not cleaned from the baseboards, behind appliances, inside cupboards, etc.

31. It seems that the tenants did do a quick surface clean however, tenants are to return the property to the landlord in the same condition as when they moved into the property. The deep cleaning that was required would have to be done prior to showing the home to potential renters and it is clear from the after pictures that the landlords bore the responsibility of completing this work.

32. I accept the landlord's time log of 21 hours costing \$455.70 and the submitted receipts for the supplies \$57.51 totaling \$513.21. The landlord's claim for compensation for damages succeeds in the amount of \$531.21.

Decision

33. The landlord's claim for compensation for damages succeeds in the amount of \$531.21.

Issue 3: Hearing expenses reimbursed \$20.00

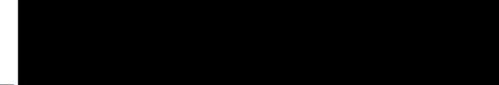
34. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#13) and pursuant to policy 12, a party may claim the filing fee as a hearing expense where they have received an award that is in an amount that is greater than the security deposit. As the landlord was awarded \$531.21 and as the security deposit was \$600.00, the landlord's claim for the filing fee does not succeed.

Summary of Decision

35. The tenant shall pay to the landlord \$531.21 in compensation of damages.

February 24, 2023

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office