

Residential Tenancies Tribunal

Application 2023-0336-NL

Decision 23-0336-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:37 p.m. on 25-May-2023.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondents, [REDACTED] (tenant 1) and [REDACTED] (tenant 2), hereinafter referred to as “the tenants” did not attend.

Preliminary Matters

4. The tenants did not attend the hearing. I attempted to reach tenant 1 via telephone however no answer, I left a message on her voicemail with the toll free number and conference ID. I was unable to reach tenant 2 as the applicant could not provide me with a phone number.
5. The landlord amended the application to decrease the amount she is seeking for damages from \$780.00 as per application to \$685.00.
6. There is a written month to month rental agreement that commenced on 1-July-2019 (LL#1). Rent is \$500.00 per month with ½ due on the first of the month and the other ½ due on the 15th of the month. A security deposit in the amount of \$300.00 was paid on 22-June-2019.
7. The landlord submitted 2 affidavits (LL#2 and LL#3)) with her application stating that she served the tenants with the notice of hearing documents on 18-April-2023 by sending it via prepaid registered mail [REDACTED] and [REDACTED] Canada Post tracking services showed that the envelopes were not picked up. In accordance with Section 35(5) of the *Residential Tenancies Act, 2018*, it shall be considered to have been served on the fifth day after mailing. This is good service.
8. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date and, where the respondents fail to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the

respondent's absence so long as they have been properly served. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.

Issues before the Tribunal

9. The landlord is seeking:
 - a. Damages \$685.00
 - b. Security deposit applied against monies owed \$300.00
 - c. Hearing expenses \$71.15

Legislation and Policy

10. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
11. Also relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 14; Security Deposit. Also relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual, Section 9: Claims for Damage to Rental Premises*.

Issue 1: Damages \$685.00

Relevant Submission

12. The landlord testified that the tenant's damaged the rental unit and submitted a list of damages to support her claim (LL#4) as follows:

To supply and install the following:

One 34 inch interior door	\$345.00
Refinish floor	\$142.00
Repair drywall	\$64.00
cleaning of range	\$50.00
Cleaning Supplies	\$24.00
Cleaning dog feces	\$50.00
Door keys (2) not returned	<u>\$10.00</u>
Total	<u>\$685.00</u>

Landlord's Position

13. Item # 1: Supply and install a 34 inch interior door. The landlord states that [REDACTED] provided her with a quote of \$345.00 to replace the door. She stated that she decided to repair the door herself as opposed to replacing it. She testified that it took her 7 hours of physical labor to repair the door. She had to use filler for the crack and then paint it. It cost approximately \$50.00 for the materials.
14. Item # 2: Refinish floor. The landlord states that [REDACTED] provided her with a quote of \$142.00 to repair the damaged floor. She stated that she decided to attempt to repair the floor herself. She testified that it took approximately 15 hours of physical labor to both sand and varnish the floor. She also stated that the floor was only 1 year old and

now had deep scratches which were difficult to repair. Product to sand and varnish cost \$20.00.

15. Item # 3: Repair drywall. The landlord states that [REDACTED] provided her with a quote of \$64.00 to repair the drywall. She stated that she decided to repair the drywall herself. She testified that it took her 3-4 days to fix the drywall as it has to be plastered 3 times, primed and then painted. She testified that it took 7-8 hours of physical labor to complete the job and supplies cost \$85.00.
16. Item # 4: Cleaning of the range and cleaning supplies. The landlord testified that it took her 5-6 hours to clean the range and she is seeking \$50.00 for her time. She states that she needed to purchase supplies in the amount of \$24.00 to get the job done. (see receipt for cleaning supplies – LL#5).
17. Item # 5: Cleaning dog feces. The landlord states that the tenants had a dog and the feces was all over the yard. She testified that it took her 3 hours of physical labor to clean it all up and she is claiming \$50.00 for her physical labor.
18. Item # 6: Door keys (2) not returned. The landlord stated that the tenants took the door keys with them and she had to replace them. She testified that it cost \$10.00 to get new keys cut.

Analysis

19. In accordance with Residential Tenancies policy 9-3, 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)

20. Item # 1: Supply and install a 34 inch interior door. I accept the landlord's testimony that she was quoted \$345.00 to install a new door but she never had the door replaced. She decided to repair the door herself. She testified that it cost \$50.00 in materials to repair the door and she is seeking 7 hours labor. The Residential Tenancies Policy on self-labor fees state that a landlord or tenant who completes work on their own can claim minimum wage plus \$8.00 per hour. The total cost according to the landlord is \$50.00 plus (7 hrs x \$22.50) for a total of \$207.50. I accept that it took her 7 hours to fill the cracks in the door and paint the door. I also accept that it is reasonable that the materials cost \$50.00. I find that it cost the landlord \$207.50 to repair the door. (See LL#4 for picture of damaged door).
21. Item #2: Refinish floor. I accept the landlord's testimony that she was quoted \$142.00 to refinish the floor but she never had the floor refinished by a professional. She decided to refinish the floor herself. She testified that it cost \$20.00 in materials to refinish the floor and she is seeking 15 hours labor. The Residential Tenancies Policy on self-labor fees state that a landlord or tenant who completes work on their own can claim minimum wage plus \$8.00 per hour. The total cost according to the landlord is \$20.00 plus (15 hrs x \$22.50) for a total of \$357.50. I accept that it took her 15 hours to sand and varnish several times and I also accept that it is reasonable that the materials cost \$20.00. However, I cannot award an amount greater than what is sought in an application. I find it is reasonable to compensate the landlord for the \$142.00 to refinish the floor as per her application and list of damages. See LL#3 for picture of damaged floor.

22. Item # 3: Repair drywall. I accept the landlord's testimony that she was quoted \$64.00 to repair the damaged drywall but she never had the drywall repaired by a professional. She decided to repair the drywall herself. She testified that it cost \$85.00 in materials to repair the drywall and she is seeking 8 hours labor. The Residential Tenancies Policy on self-labor fees state that a landlord or tenant who completes work on their own can claim minimum wage plus \$8.00 per hour. The total cost according to the landlord is \$85.00 plus (8 hrs x \$22.50) for a total of \$265.00. I accept that it took her 8 hours to plaster, prime and paint and I also accept that it is reasonable that the materials cost \$85. However, I cannot award an amount greater than what is sought in an application. I find it is reasonable to compensate the landlord for the \$64.00 to repair the drywall as per her application and list of damages. (See LL#4 for picture of damaged drywall).
23. Item # 4: Cleaning of range and cleaning supplies. I accept the landlord's testimony that she had to clean the range. The landlord stated that it took 5-6 hours to clean the range and stated that she needed to purchase extra supplies to get the job done. She testified that it cost \$24.00 in materials to clean the range and she is seeking \$50.00 for her time to clean. See receipts for cleaning supplies (LL#5). The Residential Tenancies Policy on self-labor fees state that a landlord or tenant who completes work on their own can claim minimum wage plus \$8.00 per hour. The total cost according to the landlord is \$24.00 plus (6 hrs x \$22.50) for a total of \$159.00. I accept that it took her 6 hours to clean the range and I also accept that it is reasonable that the materials cost \$24.00. However, I cannot award an amount greater than what is sought in an application. I find it is reasonable to compensate the landlord for the \$74.00 to clean the range and purchase supplies as per her application and list of damages.
24. Item # 5: Cleaning dog feces. I accept the landlord's testimony that she had to clean the dog feces from the yard. The landlord stated that it took 3 hours to clean the yard and she is seeking \$50.00 for her labor. The Residential Tenancies Policy on self-labor fees state that a landlord or tenant who completes work on their own can claim minimum wage plus \$8.00 per hour. The total cost according to the landlord is (3 hrs x \$22.50) for a total of \$67.50. I accept that it took her 3 hours to clean the yard. However, I cannot award an amount greater than what is sought in an application. I find it is reasonable to compensate the landlord for the \$50.00 to clean the yard as per her application and list of damages.
25. Item # 6: Door keys (2) not returned. I accept the landlord's testimony that she had to replace the keys to the unit. I find that changing the locks after tenants depart a unit is an expense that a landlord should absorb as a cost of doing business. I find that the tenants are not responsible for the replacement of keys.

Decision

26. I find the landlord's claim for damages succeeds in the amount of \$537.50.

Issue # 2: Security Deposit applied against monies owed \$300.00

Relevant Submissions

27. The landlord submitted a copy of the rental agreement showing payment of security deposit in the amount of \$300.00 on 22-June-2019 (LL#1). Rental agreement was signed by all parties.

Analysis

28. Section 14 of the Residential Tenancies Act, 2018 deals with security deposits, and the relevant subsections state:

Security deposit

14. (8) A security deposit is not an asset of the landlord but is held by the landlord in trust and may be used, retained or disbursed only as provided in this section.

(9) Not later than 10 days after the tenant vacates the residential premises, the landlord shall return the security deposit to the tenant unless the landlord has a claim for all or part of the security deposit.

(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.

(11) Where a tenant makes an application under paragraph (10)(b), the landlord has 10 days from the date the landlord is served with a copy of the tenant's application to make an application to the director under paragraph (10)(b).

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

29. I find that the landlord has been successful in her claim for damages (see paragraph 15) and as a result the security deposit shall be applied against damages awarded.

Decision

30. The landlord's claim for security deposit of \$300.00 applied against monies owed succeeds.

Issue 3: Hearing Expenses \$71.15

31. The landlord paid a fee of \$20.00 to file the application (LL#5). Also, the landlord paid \$26.15 for postal costs to send service documents to the tenants (LL#6). The landlord incurred a fee of \$25.00 to have her affidavits witnessed by a personal Commissioner of Oaths (LL#7). As the landlords claim has been successful, the tenants shall pay the \$71.15 fee.

Decision

32. The landlords claim for hearing expenses succeeds in the amount of \$71.15.

Summary of Decision

33. The tenants shall:

Pay the landlord \$308.65 as follows:

Damages	\$537.50
Hearing expenses	71.15
Less: Security deposit.....	(300.00)
Total	<u>\$308.65</u>

June 5, 2023

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office