

Residential Tenancies Tribunal

Application 2023 No. 615NL
Application 2023 No. 701NL

Decision 23-061500

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:04 AM on 29 August 2023 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant", participated in the hearing. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as "landlord1" and "landlord2", respectively, were also in attendance.

Issues before the Tribunal

3. The tenant is seeking an order for refund of a \$500.00 security deposit.
4. The landlords are seeking the following:
 - An order for a payment of \$3412.95 in compensation for damages,
 - An order for a payment of \$96.00 in cleaning costs, and
 - Authorization to retain the \$500.00 security deposit.

Legislation and Policy

5. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
6. Also relevant and considered in this decision is policy 9-3: Claims for Damage to Rental Premises.

Issue 1: Cleaning Costs - \$96.00

Relevant Submissions

The Landlords' Position

7. The landlords and the tenant entered into a 1-year, fixed-term rental agreement on 01 August 2022, and the tenant moved into the unit on 25 August 2022. The agreed rent was set at \$1000.00 per month and it is acknowledged in the lease that the tenant had paid a security deposit of \$500.00.
8. Landlord1 stated that on 01 June 2023 the tenant informed her that she would not be renewing her lease, and on 02 June 2023 she issued the landlords a termination notice. The tenant vacated on 30 June 2023.
9. The landlords complained that the whole apartment needed cleaning after the tenant moved out and they hired a cleaner, at a cost of \$96.00, to carry out that work. A copy of that receipt was submitted with their application.
10. Landlord1 stated that all the floors in the unit required cleaning, and all the carpets needed to be vacuumed. She stated that the countertops and the cabinets were left dirty, and there was residue on the baseboards. She also stated that the bathtub needed cleaning, and mold was found on the baseboards in the bathroom, as well as behind the washer and dryer in the laundry room. No photographs were submitted with the landlords' application.

The Tenant's Position

11. The tenant submitted 5 videos and 9 photographs with her application showing the condition of the apartment when she vacated. She stated that this evidence shows that the unit was as clean as it could be when she vacated and that there is no dirt on the floors, the appliances or in the bathroom.

Analysis

12. I found the evidence of the tenant to be persuasive, and based on that evidence I find that the rental unit did not require cleaning after the tenant vacated.

Decision

13. The landlord's claim for the costs of cleaning does not succeed.

Issue 2: Compensation for Damages – \$3412.95

Relevant Submissions

The Landlord's Position

14. Besides the issue of the cleaning, the landlords also claim that the tenant is responsible for damages caused to the rental unit during her tenancy. They are seeking \$1950.48 in compensation for water damage caused to the baseboards and the gypsum board in the bathroom, and \$1462.47 in compensation for damages caused to the vinyl flooring in the living room.

Bathroom water damage

15. Landlord1 stated that in May 2023 she was informed by the tenant that the toilet was leaking. She claimed that when she went to the unit, there was an inch of water on the floor next to the baseboard which she soaked up with towels before she proceeded to repair the toilet.
16. Landlord1 stated that the tenant had told her that the toilet had been leaking since March 2023, and she claimed that because there had been water on the floor for so long, the baseboards and the gypsum board above the baseboards have suffered water damage and are also moldy. Because of that damage, these baseboards need to be replaced, and some of the gypsum board needs to be cut out and replaced as well.
17. Landlord1 argued that had the tenant informed her of the issue back in March 2023, she would have had the toilet repaired at that time, and there would not have been any water damage. But because the tenant had not informed her of the problem in a timely manner, she argued that the tenant is responsible for the costs of carrying out the needed repairs.
18. With her application, the landlords submitted a quote showing that it would cost \$1950.48 to carry out the required repairs.

Living room floor

19. Landlord1 stated that after the tenant moved out she noticed a mark on the vinyl cushion floor in the living room. She stated that she was unable to remove the mark when cleaning, and has since determined that it is a scorch mark.
20. With their application, the landlords submitted a quote showing that they would be charged \$1462.47 to have that floor replaced. That work has not yet been carried out. Landlord1 stated that this floor was approximately 25 years old.

The Tenant's Position

Bathroom water damage

21. The tenant stated that she returned to the unit from a trip in March 2023 and she noticed that there was some water on the floor in the bathroom. She stated that she mopped up the water, and inspected the bathtub and sink to try to identify the source of the leak. She testified that she was unable to find the source of the leak, and she claimed that she kept a close eye on the bathroom, but did not see any more water on the floor.
22. 6 weeks after the first leak, the tenant noticed that there was water on the floor again, and she immediately contacted the landlord about the matter. Within a week, the landlord came by to repair the toilet. She stated that during the repairs, a large amount of water spilled onto the floor which had to be mopped up with towels.
23. The tenant claimed that she was not responsible for the leak to the toilet, and she also argued that she is not responsible for any water damage as she did not notice any water on the floor between March and May 2023.

Living room floor

24. The tenant pointed out that the submitted quote is for the costs of replacing the floor in the living room as well as the kitchen, but she stated that the landlords had not claimed that there was any damage to the kitchen floors. She also stated that the landlords' new tenants had been living in the unit for 20 days before the issue of the flooring was brought up to her.
25. The tenant stated that she was not aware that there was any damage to the floor, and she denied that she had caused the mark shown in the landlords' photograph.

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.

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)

In accordance with Residential Tenancies policy 9-3, the adjudicator must consider depreciation when determining the value of damaged property. Life expectancy of property is covered in Residential Tenancies policy 9-6.

Under Section 47 of the Act, the director has the authority to require the tenant to compensate the landlord for loss suffered or expense incurred as a result of a contravention or breach of the Act or the rental agreement.

Order of director

- 47. (1) After hearing an application the director may make an order**
- (a) determining the rights and obligations of a landlord and tenant;*
 - (b) directing the payment or repayment of money from a landlord to a tenant or from a tenant to a landlord;*
 - (c) requiring a landlord or tenant who has contravened an obligation of a rental agreement to comply with or perform the obligation;*
 - (d) requiring a landlord to compensate a tenant or a tenant to compensate a landlord for loss suffered or expense incurred as a result of a contravention of this Act or the rental agreement*

27. With respect to the water damage in the bathroom, I find that the tenant is not responsible for the costs of these repairs. It was not disputed that the tenant was not responsible for the toilet leaking, and I accept her claim that she did not witness any leaking between March and May 2023, when she notified the landlords about the matter.
28. I also find that the tenant is not responsible for the costs of replacing the floor in the living room. First of all, as there was no report of an incoming or outgoing inspection, I find that the landlords have failed to establish that this damage was caused during this tenancy. And second, vinyl cushion floors have an expected lifespan of between 10 and 12 years. As these floors were about 25 years old, they have probably come to the end of their useful life, and the landlords will soon have to replace them anyhow.

Decision

29. The landlords' claim for compensation for damages does not succeed.

Issue 3: Security Deposit

30. The tenant paid a security deposit of \$500.00 on 01 August 2022 and receipt of that deposit is acknowledged in the submitted lease. As the landlords' claim for compensation for damages and cleaning has not succeeded, they shall refund the full amount of that deposit to the tenant, as outlined in this decision and attached order.

13 October 2023

Date

John R. Cook
Residential Tenancies Tribunal