

## **Residential Tenancies Tribunal**

Application 2023-0806-NL

Decision 23-0806-00

Jacqueline Williams  
Adjudicator

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### **Introduction**

1. Hearing was called at 1:57 p.m. on 16-October-2023.
2. The applicants, [REDACTED] and [REDACTED], are represented by [REDACTED]  
[REDACTED] and she attend by teleconference, she is hereinafter referred to as "the landlord."
3. The respondent, [REDACTED], hereinafter referred to as "the tenant" attended by teleconference.

### **Preliminary Matters**

4. The landlords submitted an affidavit (LL#01) stating that the tenant was served electronically with notification of today's hearing on 22-September-2023. The tenant confirmed receipt of notification as stated.
5. The landlords had applied for Security deposit refunded \$525.00, the distribution of this deposit has already been decided in a previous hearing (2023-0186-NL) and was therefore removed from the application.

### **Issues before the Tribunal**

6. The landlords are seeking
  - Compensation for damages \$615.25
  - Hearing expenses \$20.00

### **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: Compensation for damages \$615.25**

#### Landlords' Position

9. The landlords submitted the copy of the rental agreement (LL#02). She said that the agreement was from 01-September-2022 until 01-January-2023. The tenant paid \$700.00 each month for rent for a room in the house with shared living space. There was a security deposit paid, but this deposit was awarded in a previous hearing (2023-0186-NL).
10. The landlord confirms that the previous hearing was concerning an issue with bed bugs. She disputes that the tenant stated that the box spring had black marks and may have already had an infestation before he moved in. She said that the infestation happened months after he moved in and that it was contained inside his room. She states further, that in the previous hearing, excerpt submitted (LL#03), it was determined that the infestation was the responsibility of the tenant, as follows:

*"In this case, the damages are caused by an infestation. Based on the testimony of both parties, it is apparent that this infestation is occurring in the tenant's room only. It is reasonable to determine that this issue is therefore caused by the tenant or a person he permitted into his room."*

11. She said that they had purchased two of the same type beds from a family, she believes that the beds were only about 6 months old when the tenant moved in and that the issue with the bed bugs was only in the tenant's bed. She confirms that the tenant treated the bed and then put a mattress protector on the mattress.

12. After the tenant moved they purchased a replacement twin bed. Receipt provided (LL#04) totaling \$615.25 as follows:

• Cappuccino tumpost twin bed complete .....	\$198.00
• Cappuccino tumpost twin HB/FB/Rails/Slats .....	139.00
• Cappuccino tumpost twin bed posts .....	59.00
• Sleep Aid Twin Mattress .....	288.00
• Twin size Bamboo Mattress protector .....	49.00
• Taxes .....	<u>80.25</u>
• Total .....	<u>\$615.25</u>

13. The landlord said there were no additional sightings of bed bugs. However, after the infestation the bed was no longer in the same condition as it was when the tenant moved in and they are seeking the replacement cost of the bed.
14. The landlord stated that the other landlord rented a U-Haul for \$52.84; receipt provided (LL#07). She explained that the other landlord used the U-Haul to pick up and deliver the new bed and to dispose of the old bed.

## Tenant's Position

15. The tenant questions the age of the bed provided to him by the landlord. He said that the bed already had black spots on it when he moved in and that now that he has seen what an infestation looks like; he wonders if the infestation was present when he moved in.
16. The tenant confirms that he had the bed treated for bed bugs and he put a mattress protector on the bed. He said that the exterminator said that the bed should be fine for future use and that he followed all the instructions given to him by the exterminator.

## **Analysis**

17. 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)

18. The landlord has shown in a previous hearing that the tenant (paragraph 10) was responsible for the bed bug infestation. It was also determined, at that time, that it is the responsibility of the tenant to repair this damage.
19. Both the landlord and the tenant confirmed that the tenant had contacted an exterminator, paid for the services of two separate sprays and contained the mattress in a mattress protector. The tenant behaved in a responsible manner and followed all necessary steps recommended by the exterminator to ensure this issue is resolved.
20. The landlords chose to replace the mattress without any additional sightings or proof of bed bugs. They have chosen to take extra precautions that are not required by the exterminator. This additional precaution is not the responsibility of the tenant.

## **Decision**

21. The landlord's cost for damages fails.

**Issue 4: Hearing expenses reimbursed \$20.00**

22. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#08) and pursuant to policy 12.01, as the claim is not successful they are not entitled to reimbursement of that cost from the tenant.

**Summary of Decision**

23. The landlords' claim for compensation for damages fails.

October 26, 2023

Date

Jacqueline Williams, Adjudicator  
Residential Tenancies Office