

Residential Tenancies Tribunal

Application 2023-0810-NL
2023-0875-NL

Decision 23-0810-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 1:51 p.m. on 23-October-2023.
2. The applicant, [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.
3. The respondent, [REDACTED] represented by [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
4. The tenant submitted an Authorized Representative form (TT#01), naming [REDACTED] as his representative, hereinafter referred to as “the authorized representative.”

Preliminary Matters

5. The tenant submitted an affidavit (TT#02) stating they served the landlord with notification of today’s hearing on 24-September-2023. The landlord submitted an affidavit (LL#01) stating that he served the tenant with notification of today’s hearing on 19-September-2023. Both parties confirmed receipt of notification.
6. The authorized representative requested to amend the tenant’s application to consider validity of termination. As many of the issues for both parties revolve around the end of the tenancy and the validity of termination, this issue has been added to the tenant’s application.

Issues before the Tribunal

7. The tenant is seeking:
 - Validity of termination
 - Rent \$650.00
 - Damages \$500.00
 - Return of possessions \$550.78

- Compensation for inconvenience \$850.00
- Security deposit returned \$375.00
- Hearing expenses \$20.00

The landlord is seeking:

- Rent \$670.00
- Other/cleaning \$200.00
- Security deposit applied against monies owed \$375.00
- 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, Section 18: Notice of termination of rental agreement, Section 24: Notice where tenant contravenes peaceful enjoyment and reasonable privacy, Section 29: Termination for invalid purpose, Section 33: Seizure of property, Section 34: Requirements for notices, Section 47: Order of director, and Section 51: Offence.

Issue 1: Validity of termination notice

Tenant's Position

10. The authorized representative submitted into evidence the rental agreement (TT#03) and the receipt for the security deposit (TT#04). He confirms that the statements made by the landlord concerning the details of the rental agreement and security deposit for the [REDACTED] address are accurate.
11. The authorized representative disputes the landlord's version of events concerning the end of the tenant's tenancy.
12. The tenant said on 11-August-2023, a Friday, the landlord and two other men showed up to his room and started packing his belongings. He said he tried to talk to them, but they would not answer, and he was confused by what was going on.
13. While they were packing his belongings he called the Association of New Canadians, but he didn't get an answer. He said that after the landlord and the two other men packed most of his things, the landlord said he'd be back to tell him where he was moving him. When they came back they packed the second load of the tenant's belongings and he said his landlord told him the belongings are at [REDACTED].
14. The tenant said that he didn't even know where [REDACTED] was located and had to ask the landlord where the address was. He called his friend, she brought him to [REDACTED] and when they arrived his stuff was in garbage bags with things broken, photo provided (TT#08). His friend said that they needed to call the RNC, they

called the police, and a file has been opened. The police told him that the first house on [REDACTED] Street is his address, and he can go there, but if he doesn't feel safe doing that then he should reconsider.

15. He said that the [REDACTED] house was so bad he wouldn't let a dog stay there. That night he stayed with his friend who encouraged him, the next day, to reach out to the landlord and find out where his belongings are. On 13-August-2023, he sent the landlord a text (TT#05) and the landlord told him his belongings are now at [REDACTED]. When the tenant inquired how he was to collect his items the landlord told him to call a cab or have his girlfriend drive him. The tenant said his friend drove him and he picked up his stuff and brought it back to her house.
16. The tenant said he never agreed to being moved and he never lived at either of these other addresses. He said that he did not give the landlord notice but that the landlord ended the rental agreement when he broke into his room, packed up his belongings and moved him out of his rental.

Landlord's Position

17. The landlord stated he has a written monthly rental agreement with the tenant. He said that the tenant moved into [REDACTED] on 01-August-2022. His rental period is from the first day of the month until the last, with \$650.00 rent being due in full on the first day of the month. The tenant paid a security deposit of \$375.00 at the start of his tenancy and the landlord is still in possession of the deposit.
18. The landlord explained that the tenant was renting a room in a house with shared accommodations in the kitchen. There were 3 other tenants staying at this house who were all female. The tenant had purchased a couch and moved it into the kitchen area and he was spending time there. The landlord said he received complaints from the other female tenants that the tenant was in the kitchen wearing just a towel and it was making them uncomfortable.
19. The landlord decided that this was not appropriate behavior, and he moved the tenant to another home on [REDACTED]. The landlord said that he went with the tenant to the [REDACTED] and that the tenant was pleased with the new location and at that time he said that his room was so large he was going to put his couch in his bedroom.
20. The next day the landlord said that the tenant broke into the 1st rental address and that he told the tenant at that time that he no longer lives there and he can't stay. He said that the tenant didn't want to stay at the [REDACTED] home because of a 65-year-old female who also resided at that premises, so he then moved the tenant's belongings to [REDACTED].
21. Initially there was some confusion around the dates, but the landlord confirmed that the tenant was told he was moving on 11-August-2023. On 12-August-2023 the tenant went back to the 1st rental and then his belongings were moved to the 3rd address on 12-August-2023.

22. The landlord believed that the tenant was in agreement with the moves. He confirms that there is no written documentation of these changes and that the rental agreement was then verbal with the same terms as the written agreement. He confirms that the rent paid for the 1st address was applied to the two subsequent addresses and that the security deposit was also then applied to the new homes.
23. The landlord said that the tenant ended the agreement without giving notice.

Analysis

24. The landlord did not give the tenant notice of termination of the rental agreement. In accordance with Section 18 of the *Residential Tenancies Act, 2018*, the landlord must give the tenant 3 months' notice of termination as follows:

Notice of termination of rental agreement

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

- (a) not less than 4 weeks before the end of a rental period where the residential premises is rented from week to week;*
- (b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month; and*
- (c) not less than 3 months before the end of the term where the residential premises is rented for a fixed term.*

25. The landlord claims that the tenant was only wearing a towel in the common area of co-ed housing. The other option for termination could be a termination notice for cause. Potentially the landlord could have given notice under Section 24 of the *Residential Tenancies Act, 2018*, as follows:

Notice where tenant contravenes peaceful enjoyment and reasonable privacy

24. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes statutory condition 7(a) set out in subsection 10(1), the landlord may give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises on a specified date not less than 5 days after the notice has been served.

- (2) In addition to the requirements under section 34, a notice under this section shall*
 - (a) be signed by the landlord;*
 - (b) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and*
 - (c) be served in accordance with section 35.*

26. The landlord chose not to issue either of these notices. Instead, the landlord made the decision that he would enter the tenant's rental accommodations, without notice, remove all his belongings, take the belongings to a new location and then tell the tenant where he will be living. This action occurred in excess of two months prior to the hearing, the landlord testified that this was his only solution because the female tenants were crying that he had no other options. In the face of testimony from the tenant, the landlord still declares that his solution to this issue is just.
27. The tenant has rights under the *Residential Tenancies Act, 2018*, the landlord has shown complete disregard for those rights.
28. There was no termination notice issued.

Decision

29. There was no termination notice issued, the landlord ended the tenancy without regard for the tenant's rights.

Issue 2: Rent owed \$670.00

Issue 3: Rent refunded \$650.00

Landlord's Position

30. The landlord submitted a rent ledger (LL#03) showing that the tenant had paid \$630.00 in January and there has been \$20.00 owing since that time. The landlord is also seeking \$650.00 for September's rent, because the tenant never gave notice, and the landlord did not know he wasn't staying at the rental.
31. The landlord rented the room again beginning in October.

Tenant's Position

32. The tenant said that the landlord moved him out of his rental in August and he stayed with a friend. He is seeking August rent refunded.
33. The tenant disputes that there was \$20.00 missing from his rent payments, he explained that the landlord would only receive payments from him in cash. He said that others had warned him to get a receipt for any money paid. He did not submit the receipts into evidence. He confirms that he was not residing at the premises in September.

Analysis

34. I accept the landlord's rental ledger that the tenant has owed \$20.00 rent since January 2023. I find that the tenant does owe the landlord \$20.00.
35. As determined in paragraph 29 the landlord ended this tenancy with complete disregard for the tenant's rights. The tenant did not enter a rental agreement or occupy either of the two subsequent addresses chosen by the landlord. The tenant does not owe rent on a residence that he did not rent. The landlord's claim for September rent fails.

36. The tenant is seeking reimbursement of his rent for the month of August when he and his belongings were removed from his rental on 11-August-2023. As the tenant was no longer permitted use or enjoyment of his residence, I will award a daily rate of rent refunded from 11 – 31 August as follows: $\$650.00 \times 12 \text{ months} = \$7,800.00$ a year divided by 365 days = $\$21.37$ a day $\times 21 \text{ days} = \448.77 . The landlord shall reimburse the tenant $\$448.77$ for the remainder of August.
37. As the tenant owes the landlord $\$20.00$ for January and the landlord owes the tenant $\$448.77$ for August, these amounts will be offset. The landlord shall reimburse the tenant $\$428.77$ for rent.

Decision

38. The tenant's claim for rent succeeds in the amount of $\$428.77$.

Issue 4: Damages \$500.00

Tenant's Position

39. The tenant said that the landlord and the two people who packed his belongings placed his items in garbage bags. He said that some of his belongings are broken.
40. The tenant provided a compensation list (TT#06) listing his Microsoft touch laptop. The tenant is a student and he explained that he has a laptop that is on loan to him from Association for New Canadians. He said that the laptop is broken and freezes. The authorized representative said that the issues with the screen occurred after the move he explained that the top of the monitor is scratched.
41. The tenant has an agreement with Association for New Canadians that he will return the laptop in the same condition it was loaned to him. No copy of the contract was provided to this tribunal. He explains, default of this agreement will cost him $\$1,500.00$. He is seeking $\$500.00$ in compensation for this damage.

Landlord's Position

42. The landlord questions the tenant's statements about the laptop, he said that no proof has been provided to show this damage or to verify the agreement the tenant has claimed to have made. He also stated that he never saw a laptop with the tenant's belongings.
43. The landlord questions "who would put a laptop in a garbage bag with clothing?" He states that there is no evidence here it is all fabrication.

Analysis

44. As the testimony of both parties confirmed that the landlord and two other individuals entered the tenant's rental without notice and removed all his belongings without permission, I find that the landlord is responsible for the damages to the tenant's property.

45. The landlord shall reimburse the tenant \$500.00 for the damage to his laptop.

Decision

46. The tenant's claim for damages succeeds in the amount of \$500.00.

Issue 5: Return of possessions \$550.78

Tenant's Position

47. The tenant provided a list of possessions returned (TT#06). The tenant is missing his couch and 2 pairs of jeans and 2 shirts.
48. He said that he has not received his couch back. He is seeking either the return of the couch or \$350.00 in compensation.
49. The tenant said he had purchased two pairs of jeans and two shirts from Walmart. He submitted his bank statement to show the cost of purchase (TT#07) totaling \$200.78. The items are brand new and he said that they are missing from his belongings, he doesn't know which of the addresses these items may be located.

Landlord's Position

50. The landlord verified that the couch is still at [REDACTED] and the tenant can come get it.
51. The landlord disputes the bank record showing a Walmart purchase and said that this is not a receipt. He said he doesn't know where the tenant's clothing is, he doesn't have the clothes, they don't wear the same size.

Analysis

52. There is no dispute concerning the return of the couch. The landlord shall make arrangements to deliver the couch to the tenant at his current address within one week of receipt of this decision. Should the landlord not return the couch within the one week time frame, an order for compensation will be awarded to the tenant in the amount of \$350.00 for the couch.
53. The tenant has provided his bank receipts to show that a few days before he was removed from his rental he had purchased two shirts and two pairs of jeans totaling \$200.78. As the landlord and two other men took the tenants belongings and moved them twice without the consent or participation of the tenant, I accept that these belongings are missing and that the landlord is responsible for the loss.
54. The landlord shall compensate the tenant \$200.78 for the loss of his items.

Decision

55. The tenant's claim for compensation for missing items is successful the landlord shall compensate the tenant \$200.78 for the loss of his items.
56. The landlord shall deliver the couch to the tenant to his current address within one week of receipt of this decision. Should the landlord not return the couch within the one week time frame, an order for compensation will be awarded to the tenant in the amount of \$350.00 for the couch.

Issue 6: Compensation for inconvenience \$850.00

Tenant's Position

57. The tenant provided a list of inconveniences (TT#06):
- Emergency accommodations \$700.00
 - Contributions to food and gas \$150.00
58. The tenant is seeking \$700.00 for rent with his friend (TT#07). He provided a receipt from his friend for \$450.00 for accommodations.
59. He is also seeking the cost of gas for his friend to drive him around after the landlord moved him. (TT#07) He provided a handwritten receipt for \$50.00.
60. Additionally, he is seeking the cost of groceries, he said that his groceries were left behind when the landlord moved him. (TT#07) He provided a handwritten receipt for \$50.00.

Landlord's Position

61. The landlord questions where the tenant is coming up with the values for his inconvenience. He said that his accommodations do not include groceries and that the tenant took all his belongings when he moved; there was no food left behind.

Analysis

62. I accept that due to the landlord's actions the tenant required emergency accommodations, lost his groceries, and required transportation around the city to retrieve his belongings. The tenant submitted handwritten receipts from his friend who provided these services totaling \$550.00, as follows:
- Accommodations \$450.00
 - Food 50.00
 - Transportation..... 50.00
 - Totaling \$550.00
63. The tenants claim for compensation for inconvenience succeeds in the amount of \$550.00.

Decision

64. The landlord shall compensate the tenant \$550.00 for inconvenience.

Issue 7: Other / cleaning \$200.00

Landlord's Position

65. The landlord is seeking the cost of cleaning the first residence after the tenant moved. He did not provide evidence of what required cleaning. He did provide a receipt for the cost incurred (LL#04). He said that the area was left unclean.

66. The landlord confirms that the tenant was not provided notice that he was to be moved.

Analysis

67. The landlord's claim is without merit, he did not provide the tenant an opportunity to clean.

Decision

68. The landlord's claim fails.

Issue 8: Security deposit returned \$375.00

Issue 9: Security deposit retained \$375.00

Tenant's Position

69. The tenant is seeking return of his security deposit.

Landlord's Position

70. The landlord is seeking to retain security deposit to be applied to monies owed.

Analysis

71. As per Section 14 of the *Residential Tenancies Act, 2018*:

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.*

72. The landlord's claim for monies owed was successful in the amount of \$20.00 rent that has been outstanding since January 2023, as determined in paragraph 37, that amount has been offset against the rent owed to the tenant.

Decision

73. The landlord shall return the tenant's security deposit totaling \$375.00 to the tenant.

Issue 10: Hearing expenses reimbursed \$20.00

74. Both parties submitted their receipts (TT#09 & LL#05) for the application fee. Pursuant to policy 12.01, as the tenant's claim has been successful, he is entitled to reimbursement of that cost from the landlord.

Issue 11: Final comments

Tenant's Position

75. The authorized representative noted at the conclusion of the hearing that the landlord's actions are in violation of the following sections of the Residential Tenancies Act, 2018:

Section 10.(5) the landlord gave no notice:

Statutory conditions

10. 5. Entry of Residential Premises - Except in the case of an emergency, the landlord shall not enter the residential premises without the consent of the tenant unless

- (a) notice of termination of the rental agreement has been given and the entry is at a reasonable time for the purpose of showing the residential premises to a prospective tenant or purchaser and a reasonable effort has been made to give the tenant at least 4 hours' notice;*
- (b) the entry is made at a reasonable time and written notice of the time of the entry has been given to the tenant at least 24 hours in advance of the entry; or*
- (c) the tenant has abandoned the residential premises under section 31.*

Section 10.(7) the landlord interfered with the tenant's reasonable privacy and peaceful enjoyment:

Statutory conditions

10. 7. Peaceful Enjoyment and Reasonable Privacy -

- .(b) The landlord shall not unreasonably interfere with the tenant's reasonable privacy and peaceful enjoyment of the residential premises, a common area or the property of which they form a part.*

Section 18.(2) the landlord gave no notice:

Notice of termination of rental agreement

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

Section 29.1 the tenant felt threatened:

Termination for invalid purpose

29. (1) A landlord shall not

- (a) terminate or give notice to terminate a rental agreement; or
- (b) directly or indirectly coerce, threaten, intimidate or harass a tenant or a member of a tenant's family,

Section 33 the landlord entered and removed all the tenant's belongings:

Seizure of property

33. A landlord shall not take a tenant's personal property to compensate for a contravention of an obligation by the tenant, including a failure to pay rent.

Section 34 – the landlord gave no notice:

Requirements for notices

34. A notice under this Act shall

- (a) be in writing in the form prescribed by the minister;
- (b) contain the name and address of the recipient;
- (c) identify the residential premises for which the notice is given; and
- (d) state the section of this Act under which the notice is given.

76. The authorized representative declares that this is an egregious contravention of the Act and that as a regulator of the government it is our responsibility to find fault and impose a fine in accordance with Section 51. He is requesting that the three people who entered the tenant's home without notice or cause and removed his items should be fined the maximum of \$3,000.00 each and that additionally the company [REDACTED] [REDACTED] should be fined the maximum of \$10,000.00. He goes on to state that this person was subject to anarchy and that it is incumbent upon us to take a position of what is right.

Offence

51. (1) A person who contravenes this Act, the regulations or an order under this Act is **guilty of an offence and is liable on summary conviction**

- (a) in the case of an individual, to a fine not exceeding \$3,000, and in default of payment, to imprisonment for a term not exceeding 4 months; and
- (b) in the case of a corporation, to a fine not exceeding \$10,000.

(2) Each contravention of this Act, the regulations or an order under this Act constitutes a new and separate offence.

(3) *Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.*

Landlord's Position

77. States that he was asked to come over by the other tenants and that upon arrival, the tenant is stood up in the shared space wearing only a towel with no underpants and that they had to do what was right.

Analysis

78. I acknowledge the authorized representative's claim that the actions of the landlord are in direct violation of the *Residential Tenancies Act, 2108*. The testimony of both parties indicates the landlord has knowledge of the *Act* and has acted with complete disregard to the rules and regulations under this *Act* and with absolute disregard for the tenant's rights. The testimony of both parties confirms violations of the tenant's rights continued for three days.
79. It is concerning that two months after the incidents surrounding the end of this tenancy that the landlord still views his behavior as acceptable; he is without any remorse for his actions. It is distressing that any reasonable person would believe that it is okay to take everything a person owns, move those belongings twice and dictate that this is where they will live, without any input or permission from that person.
80. Under Section 51 of the Residential Tenancies Act, 2018, it states that anyone who contravenes this *Act* and its regulations is guilty of an offence and liable on a summary conviction. The Director does not have the authority to make the order requested. An Order of director is covered under Section 47 of the *Residential Tenancies Act, 2018*, as follows:

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;*
- (e) directing a tenant to vacate the residential premises on a specified date;*

- (f) directing a landlord to deliver to a tenant possession of personal property taken in contravention of this Act or the rental agreement or to compensate a tenant for the value of the personal property taken;*
- (g) directing a tenant to deliver to a landlord possession of personal property taken in contravention of this Act or the rental agreement or to compensate a landlord for the value of the personal property taken;*
- (h) directing a landlord to pay to a tenant an amount as compensation for inconvenience as a result of a contravention of this Act or the rental agreement, and authorizing the tenant to offset that amount against future rent;*
- (i) authorizing a tenant to offset, in the manner specified in the order, money a landlord owes to the tenant against money the tenant owes to the landlord;*
- (j) authorizing a landlord to offset, in the manner specified in the order, money a tenant owes to the landlord against money the landlord owes to the tenant, other than a security deposit where the landlord has not made an application under subsection 14(10);*
- (k) directing a tenant to pay rent or a specified amount of rent to the director;*
- (l) determining the validity of a notice to terminate a rental agreement;*
- (m) determining the disposition of a security deposit;*
- (n) extending the notice period under subsection 18(4);*
- (o) extending or reducing the notice period under subsection 28(9);*
- (p) imposing terms and conditions the director considers appropriate, including terms and conditions to ensure compliance with this Act and the rental agreement; and*
- (q) requiring an unsuccessful party to an application to pay costs to a successful party to an application.*

81. The Director does not have the authority to apply the offence provisions identified in section 51 of the Residential Tenancies Act. Any party seeking to have the offence provisions applied would be required to lay an information with Provincial Court of Newfoundland and Labrador.

Decision

82. This tribunal does not have the authority to apply the offence provisions of the Residential Tenancies Act., 2018.

Summary of Decision

83. The landlord shall pay to the tenant \$2,074.55, as follows:

- Rent \$428.77
- Damages 500.00
- Missing possessions 200.78
- Inconvenience 550.00
- Security deposit 375.00
- Hearing expenses 20.00
- total..... \$2,074.55

The landlord shall deliver the tenant's couch, to his current address, within one week of the issue of this decision. Should the landlord not return the couch within the one week time frame, an order for compensation will be awarded to the tenant in the amount of \$350.00 for the couch.

October 31, 2023

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office