

Residential Tenancies Tribunal

Application 2023-0919-NL

Decision 23-0919-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 9:15 AM on 8 November 2023 via teleconference.
2. The applicants [REDACTED] hereinafter referred to as “tenant1”, attended the hearing. [REDACTED] hereinafter referred to as “tenant 2”, was not in attendance.
3. The respondents, [REDACTED] and [REDACTED] hereinafter referred to as “the landlords”, were not in attendance. The landlords were not represented.
4. In a proceeding under the *Residential Tenancies Act*, 2018, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

Preliminary Matters

5. Tenant1 confirmed the affidavit (**Exhibit T # 1**) stating that the landlords were served in person at [REDACTED] with notification of today’s hearing on 12 October 2023. Tenant1 included with their application, a video of tenant1 issuing the landlords the Application for Dispute Resolution (**Exhibit T # 2**).
6. Tenant 1 amended her application during the hearing seeking courier expenses in the amount of \$168.00 and hearing expenses in the amount of \$20.00. Tenant 1 did not call any witnesses during the hearing.

Issues before the Tribunal

7. The tenants are seeking the following:
 - An order for a payment of \$5000.00 in compensation for damages;
 - Compensation for inconveniences of \$168.00, and
 - Hearing Expenses of \$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 case is section 15 of the *Residential Tenancies Act, 2018*, policy 9-3 Claims for Damage to Rental Premises, policy 9-4 Compensation for damage to tenants personal property and rule 29 of the *Rules of the Supreme Court, 1986*.
10. The landlords were not present or represented at the hearing. I was unable to reach them by telephone when I attempted to contact them at 9:04 AM by telephone [REDACTED] on the hearing date. This Tribunal's policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. 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 respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent's absence so long as they had been properly served. Tenant 1 submitted an affidavit with her application stating she served the landlords in person, on 12 October 2023, at approximately 7:12 PM, at [REDACTED] NL, with an Application for Dispute Resolution (**Exhibit T # 1**). As the landlords were properly served, and as further delay in the proceedings would unfairly disadvantage the tenants, I proceeded with the hearing in absence of the landlords.

Issue 1: Compensation in damages- \$5000.00

Relevant Submissions

11. Tenant1 reviewed the details of the rental agreement. She stated that they had a verbal monthly rental agreement with rent set at \$950.00, due on the 5th of each month. There was no security deposit collected on this tenancy. Tenant1 stated that tenant2 resided at [REDACTED] NL between July 2020 and 8 October 2023. Tenant1 stated she moved into the rental to reside with tenant2 on 1 January 2022 until 8 October 2023.
12. Tenant1 stated approximately a month after she moved into the basement apartment, she noticed dampness and had requested for the landlords to provide a dehumidifier. This was provided by the landlords and tenant1 described their use of the dehumidified as, "throughout the day, it was running consistently. At night, we would turn it off".
13. Tenant1 offered testimony that during the summer 2023, there was one instance when the laundry room flooded. Tenant1 stated at that time, there had been continuous rain and the flooding was, "not any fault of the landlords".
14. Tenant1 described the laundry room as a common area to access the washer/dryer and the entry way to the tenants apartment. Tenant1 stated following the flooding, they began noticing increased dampness in their apartment.

15. Tenant1 indicated she spoke with both landlords about concerns with the dampness and mildew following the flooding. Tenant1 stated the landlord attended the apartment on one occasion to view the mold. The landlords encouraged the tenants to use vinegar and soap a way to control the mildew.
16. Tenant1 stated that after attempting to deal with the mold and dampness of the rental, tenant2 contacted the landlord to indicate that vinegar, soap and water were not adequately dealing with the issue (**Exhibit T # 3**).
17. Tenant1 stated following the flooding of the laundry room, she, "could not keep up with the mold and mildew" and "it was at that time that I realized they did not care for their property or my family".
18. Tenant1 included in with their application, an Inspection Request with the city of St. John's regarding water damage/extreme mold at [REDACTED] (**Exhibit T # 4**). She stated this was filed with the city of St. John's as they both felt the rental dampness was excessive. The municipality did not execute any actions in relation to this application.
19. Tenant1 testified they had to dispose of personal items including a number of pieces of furniture, clothing, cleaning supplies, and medicine. Tenant1 stated the basement apartment and all of their personal belongings smelled of dampness. They did not indicate during the hearing they carried tenant insurance. With their application, the tenants submitted a breakdown of the costs they are seeking in compensation (**Exhibit T # 5**). There are 17 items in that breakdown, and I've grouped them under the following headers:

Item #1: Two couches

20. Tenant1 stated they are seeking a payment of \$150.00 for two couches which they left in the rental due to dampness, mold and mildew on the two pieces of furniture. Tenant1 offered testimony, the couches were owned by tenant2 prior to moving into the rental unit in July 2020. She did not offer the age of those couches.

Item #2: End Table

21. Tenant1 stated they are seeking \$150.00 for an end table which they left in the rental due to mold on this piece of furniture. The end table had a marble top and wooden legs and the mold and mildew was on the wooden legs which tenant1 was unable to clean. Included in with their application, the tenants included a picture of the end table (**Exhibit T # 15**).

Item #3: Stand up fan

22. Tenant1 stated they are seeking \$150.00 for a stand-up fan which they left in the rental due to the smell, mold. She described the effects of the mold as, "it was made from a material that would not allow me to scrub the mold out".

Item # 4: Bed frame and mattress

23. Tenant1 stated they are seeking \$1,557.37 for a bed frame and mattress which they left in the rental due to the smell of the mattress, and mold on the bed frame. Tenant1 expressed her frustration with having to do so as the bedframe and mattress had been recent purchases. Tenant1 also included in with their application a receipt for the cost of the bedframe (**exhibit T # 6**) and mattress (**Exhibit T # 7**), along with pictures of the bedframe and mattress prior to existing the rental (**Exhibit T # 8**).

Item # 5: Four chairs, pub style and dining room table

24. Tenant1 stated they are seeking \$350.00 for 4 pub style chairs and dinning room table which they left in the rental due to the mold on those items which she was unable to clean. She also included in with their application, pictures of the table and chairs (**Exhibit T # 9a-c**) prior to leaving the rental.

Item # 6: Three dressers

25. Tenant1 stated they are seeking \$200.00 for three dressers which they left in the rental due to mold which she was unable to clean. She did not indicate the ages of these pieces of furniture and also included in with their application, pictures of the dressers (**Exhibit T # 8**).

Item #7: Twelve pairs of shoes

26. Tenant1 stated they are seeking \$1,100.00 for twelve pairs of shoes they left in the rental due to mold which she was unable to clean. She also included in with their application, pictures of a bag of shoes (**Exhibit T # 10**). There was no suggestion to this Tribunal of the ages of these items.

Item # 8: Shoe Rack

27. Tenant1 stated they are seeking \$20.00 for a shoe rack they left in the rental due to mold which she was unable to clean. Tenant1 described this shoe rack as plastic and had attempted a number of different cleaning solutions to no avail. She also included in with their application, a picture of this shoe rack (**Exhibit T # 11**). Tenant1 did not offer the age of the shoe rack.

Item # 9: Hygiene Products

28. Tenant1 stated they are seeking \$100.00 for hygiene products they left in the rental due to mold which she was unable to clean. She described those items as deodorants, tooth paste and toothbrushes which they stored in the bathroom cabinet. Tenant1 described the toothbrushes as having, "black bristles" caused by the dampness in the rental.

Receipts for the cost of the items were not offered and the ages of the items were not indicated. There were no pictures of these items provided to this Tribunal.

Item #10: Clothing

29. Tenant1 stated they were seeking \$100.00 for clothing which they left in the rental due to the smell and dampness of those items. She described the clothing as, "shirts, pants, sweaters and coats". Receipts for the costs of the items were not offered and the age the items were not indicated. There were no pictures of clothing provided to this Tribunal.

Item # 11: Cleaning supplies

30. Tenant1 stated they are seeking \$120.00 for cleaning supplies which they had to purchase to try and deal with the mold and dampness of the rental property. Receipts for the costs of those items were not offered and there was no suggestion if the cleaning supplies were left in the rental prior to exiting. There were no pictures of these items provided to this Tribunal.

Item #12: Crib/Mattress

31. Tenant1 stated they are seeking \$199.97 for a crib and mattress which they left in the rental due to the smell and dampness of those items. The crib and mattress were new and tenant1 complained about having to leave behind those items due to the mold which she was unable to clean. As well, tenant1 stated the smell on the mattress was not healthy for her child to continue to sleep on. She also included in with their application, receipts of the cost of those items (**Exhibit T # 12**). There were no pictures of these items provided to this Tribunal.

Item # 13: Desk

32. Tenant1 stated they are seeking \$509.99 for an office desk which they left in the rental due mold she was unable to clean. She stated the desk was against the outside wall in the living room, in front of the window, and this desk had, "fallen apart" prior to their exiting of the rental. Tenant1 also included in with their application, receipt of the cost of the desk (**Exhibit T # 13**). Pictures of the desk were not provided to this Tribunal.

Item # 14: Two TV stands

33. Tenant1 stated they are seeking \$100.00 for two tv stands which they left in the rental due to mold she was unable to clean. She stated these items were made of wood and metal and glass, that she could not clear of the mold. Receipts for the costs of the items were not offered and the age the items were not indicated. There were no pictures of these items provided to this Tribunal.

Item # 15: Medicine

34. Tenant1 stated they are seeking \$100.00 for medicine which they left in the rental. She described the items as Advil Liquid Gels and Gravol, and said "I decided to go through what I had there. I had to throw out over half what I had there". There were no receipts offered for the costs of those items. There were no pictures of these items provided to this Tribunal.

Item # 16: U-haul

35. Tenant1 stated they are seeking \$56.00 for a U-haul which they had rented to move from the rental. There were no receipts offered to this Tribunal.

Item # 17- White stand

36. Tenant1 stated there are seeking \$50.00 for a bedroom stand which they left in the rental. She stated this piece of furniture was in the main bedroom and she was unable to clean the mold off the wooden piece of furniture. There were no pictures, or a receipt provided to this Tribunal for this item.

Analysis

37. Under Section 10(1)1 of the *Residential Tenancies Act*, 2018, the landlord is responsible to keep the premises in an appropriate condition for tenants.

1. Obligation of the Landlord- (a) The Landlord shall maintain the residential premises in a good state of repair and fit for habitation during the tenancy and shall comply with a law respecting health, safety or housing.

(b) Paragraph (a) applies regardless of whether, when the landlord and tenant entered into the rental agreement, the tenant had knowledge of a stated of non-repair, unfitness for habitation or contravention of a law respecting health, safety or housing in the residential premises.

Residential Tenancies Policy and Procedure Policy number 07-002, Failure to Complete Repairs is applicable in this situation. As stated in policy 07-002, "A landlord is responsible to maintain the premises in a good state of repair and where the disrepair causes damages to a tenant's property or possession, the landlord can be held liable for the costs of repair or replacement".

Accordingly, in any damage claim, the applicant is required to show:

- That the damage exists;
- That the respondent is responsible for the damages, 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 landlord to compensate the tenant for loss suffered or expense incurred as a result of a contravention or breach of the Act of 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

38. The photographs submitted by the tenants show that the rental unit did experience dampness and mold. The tenants had contacted the landlord as presented in evidence to attempt to deal with the dampness following the flooding of the laundry room. The tenants do not feel that the landlord was responsible for the flooding; however, did have concerns with the landlord's response to the flooding situation.
39. Tenant1 offered video evidence (**Exhibit T # 2**) of the landlord being served the Application for Dispute Resolution. However, the landlord did not participate in the hearing.
40. The photographs submitted by the tenants show the surface mold on eight of seventeen pieces of furniture (**Exhibit T # 4**) which include the following:
 - Bed Frame
 - Mattress
 - Dressers
 - Plastic Shelf
 - Shoe rack
 - Bag of footwear
 - End table
 - Dining room table and chairs

41. Tenant1 offered testimony that following the flood in the laundry room of the residence, they approached the landlords about their concerns with mold in the rental. The landlord provided a dehumidifier. Tenant1 described the use of the dehumidifier as being, "continuous" and specified this often involved the tenants moving the dehumidifier to different rooms of the rental in attempts to deal with the dampness. Tenant1 stated this was not effective in eliminating mold and mildew and expressed their concerns again to the landlord who encouraged the tenants to use soap and vinegar to deal with the mold. Tenant1 stated this did not solve the mold problem which resulted in their personal belongings being damaged. I accept the tenants testimony and photographic evidence that the landlord had not had this issue properly dealt with. I find the landlord in contravention of the statutory obligations. Each of the seventeen items which the tenants are seeking damages, I will break down individually.

42. Item # 1 of two couches equaling \$150.00, I accept the testimony of tenant1 that there was damage from mold. There is no additional evidence offered of the ages of the two couches other than tenant2 owned the furniture prior to moving in during July 2020. The original cost of the two items were not offered to this Tribunal. There was no indication of the state of the couches before and after the flood, as well as there were no pictures to present additional evidence about the couches. As defined within the Act, the burden of proof falls to the applicants to prove what they alleged to have happened did occur. Policy number 09-003, Claims for Damage to Rental Premises, of the *Residential Tenancies Program*, states, "*The responsibility to prove the claim and to value each item of the claim lies with the applicant.*". Based on the evidence available to me with this claim, I do not have sufficient information to support the applicants claim that the damage to both couches was caused by the flooding and dampness. The tenants claim for damages of \$150.00 for two couches fails.

43. With respect to item #2, end table equaling \$150.00, I accept the testimony and evidence of tenant1 that there was damage to the wood/marble end table. The picture offered reveals mold on the wooden legs of the furniture (**Exhibit T #15**). There was no evidence offered of the cost of the end table. Also, there was no indication of the age of piece of furniture. Based on the evidence available to me with this claim, I do not have sufficient information to support the applicants claim that the damage to the end table was caused by flooding and dampness. The tenants claim for damages of \$150.00 for an end table fails.

44. Regarding item #3 of a stand-up fan equaling \$150.00, I accept the testimony of tenant1 that there was mold on this item. The evidence which I have available to me, does not offer any physical evidence (i.e. pictures), does not reveal the age of the fan and does not present the amount for the fan. The burden of proof falls to the applicants to prove what they alleged to have happened did occur. Based on the evidence available to me with this claim, I do not have sufficient information to support the applicants claim that the damage to the stand-up fan was caused by the flooding and dampness. There is also no evidence that there was damage to a stand-up fan. The tenants claim for damages of \$150.00 for a stand-up fan fails.

45. In relation to Item #4 of a bedframe and mattress equaling \$1,557.37, I accept the testimony and evidence of tenant1 that the bedframe and mattress was damaged by

mold. Tenant1 provided evidence of payment receipt dated 16 March 2021 identifying tenant1 as the buyer of two mattresses in the amount of \$2,434.76 (one mattress equals \$1,217.38) (**Exhibit T # 7**). In addition, tenant1 offered evidence of the bed frame equaling \$319.99 (**Exhibit T # 6**).

Tenant1 provided evidence of pictures of both her mattress and bed frame (**Exhibit T # 8**). What I observe of those pictures is that the bed frame on exhibit T # is the same as the bed frame on the pictures. As well, both the mattress and bed frame as presented on the pictures clearly reflects mold and mildew. The tenants were seeking \$1,557.37 for damages to both mattress and bed frame. The receipts demonstrate the mattress and bed frame were purchased in March 2021. I find, as based on the evidence, the tenants claim for damages succeeds.

46. With respect to item #5 of a dining room table and four pub style chairs equaling \$350.00, I accept the testimony and evidence tenant1 that there was damage to the wooden legs of the table and chairs. Upon examination of the evidence offered by tenant1, the pictures reveals mold on the wooden legs of the table as well as on the legs of the chairs. I do not have any insight about the age of those pieces of furniture or any additional insight into the original cost of the items. I accept tenant1's testimony she had concerns with mold. I do not find in the evidence the original value, no receipts or estimates for the value of \$350.00. I find the tenants claim for damages for item #5 of \$350.00 fails.
47. In relation to Item #6 of three dressers equaling \$200.00, I accept the testimony and evidence of tenant1 that the dampness of the rental unit contributed to damages to the three dressers. Tenant1 did not offer the ages of the three pieces of furniture or the original prices of those items. There was evidence (**Exhibit T # 8**) showing the state of the dressers prior to leaving the rental unit. Upon review of the evidence presented by the applicant, there is no evidence indicating the original value for the dressers, and no receipts for the items. I find the tenants claim for damages of \$200.00 for item #6 fails.
48. In regard to Item#7 of twelve pairs of shoes equaling \$1,100.00, I accept the testimony of tenant1 that dampness in the rental unit contributed to some of her personal belongings being damaged. Tenant1 provided evidence of shoes (**Exhibit T # 10**). She did not provide the ages of the shoes, the costs of each pair and the state of the foot ware before the flood. There was no information offered if tenant1 attempted to clean the shoes. Upon examination of the evidence, I observe one pair of black sneakers which have mold on them. The do not appear to be new. I have no ability to see all other pairs of footwear in the clear garbage bag. As defined within the Act, the burden of proof falls to the applicants to prove what they alleged to have happened did occur. The tenants claim for damaged of \$1100.00 for twelve pairs of shoes. The evidence offered only reflects on one pair of shoes showing mold. I do not find the original value of those pair of shoes, no receipts for the cost of those shoes and no age of the items. The tenants claim for damages in the amount of \$1,100.00 fails.
49. With respect to Item #8 of a shoe rack equaling \$20.00, I accept the testimony of tenant1 of concerns with dampness of the rental unit. Upon review of the evidence offered by tenant1, I observe a sixteen-section shoe rack with all sections having mold. I do not have evidence to suggest the original value of the shoe rack, no receipts for the cost and

no indication of the age of the item. I find the tenants claim for damages in the amount of \$20.00 fails.

50. Regarding item #9 of hygiene products equaling \$100.00 which tenant1 states they left in the rental unit due to mold on the products. There is no additional evidence offered of the ages of the hygiene products, the original cost of the items, and there were no pictures to present additional evidence. As defined within the *Act*, the burden of proof falls to the applicants to prove what they alleged to have happened did occur. The tenants claim for damages of \$100.00 for hygiene products fails.
51. In relation to item #10 of clothing equaling \$100.00 which tenant1 states they left in the rental due to damages and smell of the clothing, those items were described by tenant1 as being, "shirts, pants, sweaters and coats". Tenant1 did offer verbal testimony about this claim, however did not suggest the original values of those items, how many items there were and the ages of those pieces of clothing. Furthermore, there were no pictures of those items provided to this Tribunal. Based on the evidence available to me with this claim, I do not have sufficient information to support the applicants claim that the damage to clothing was caused by the flooding and dampness. The tenants claim fails based on the lack of evidence in relation to these items rendering me unable to make a determination on the balance of probability.
52. Item #11 is in regards to the tenants seeking damages in the amount of \$120.00 for cleaning supplies. I accept the testimony of tenant1 that the rental unit did have dampness and mold. The evidence offered by tenant1 reflects clear signs of mold within the apartment (**Exhibit T # 8**). Section 10(2) of the *Act*, clearly outlines the expectations on tenants to keep the rental clean. As defined in Section 10 (2),

"Obligation of the Tenant- the tenant shall keep the residential premises clean and shall repair damage caused by a willful or negligent act of the tenant or of a person whom the tenant permits on the residential premises".

The tenants provided both testimony and evidence of the attempts to deal with the dampness of [REDACTED] (**Exhibit T # 3**). Tenant1 did not engage in willful or negligent acts to not keep the premises clean. I fully accept tenant1 attempted to maintain the cleanliness of the property. Tenant1 did not provide any additional information about the cleaning supplies such as receipts, amounts of cleaning supplies, or any pictures of those cleaning supplies. I am also unable to determine if the cleaning supplies were not for standard use or how much monies were spent on supplies used for cleaning mold/dampness. As such, I find tenant1's claim for damages does not succeed.

53. In relation to item #12 of a crib and mattress equaling \$199.97, the tenants are seeking reimbursement for damages. Tenant1 suggested she was unable to clean both the crib and mattress of mold which resulted after the flooding of the laundry room in the rental unit. I accept tenant1's testimony the rental unit experienced dampness and mold. She provided this Tribunal a picture of a crib and mattress equaling \$199.97 (**Exhibit T # 12**). Testimony was not offered in the hearing about the age of the crib and mattress or pictures of those items before or after the flooding. Pictures of the crib and mattress after the flooding was not provided. During the hearing, tenant1 explained they would

move the dehumidifier between rooms in the apartment. As based on the balance of probabilities, the tenants claim for damages equaling \$199.97 for a crib and mattress fails.

54. The tenants are seeking damages equaling \$509.99 for a desk, tenant1 stated due to dampness of the rental, the item was not taken from after she exited the property. She testified this desk could not be cleaned and had, "fallen apart" which she attributed to the dampness. Tenant1 also included in with their application a picture of the desk which she stated she owned (**Evidence T # 13**). This piece of evidence reveals the desk was purchased by tenant1 in March 2021. There are however, no pictures prior to and following the flooding. I also do not have any evidence to suggest that the dampness of the rental unit caused the desk to fall apart. As based on the balance of probabilities, the tenants claim for damages equaling \$509.99 for a desk fails.
55. With respect to item #14, the tenants are seeking damages equaling \$100.00 for damages to two tv stands. In review of the evidence offered by tenant1 (**Exhibit T # 8**), I observe a television on a dresser and do not see pictures of two stands. Tenant1 did not offer the ages of those items, any information for the cost of those items, and did not provide pictures of the tv stands either before or after flooding of the laundry room. Based on the evidence available to me with this claim, I do not have sufficient information to support the applicants claim that the damage to two tv stands was caused by the flooding and dampness. The tenants claim for damages related to item #14 fails.
56. The tenants are seeking damages equaling \$100.00 for medicines. Tenant1 described these medicines as including Advil Liquid Gels and Gravol tablets. The only testimony offered by tenant1 about those items was her claim, "I decided to go through what I had there. I had to throw out over half what I had". There was no evidence offered about how many items she discarded, how long she had those medicines, no pictures of the items, or the actual costs of the medicines she threw out. Based on the evidence available to me with this claim, I do not have sufficient information to support the applicants claim that the damage to medicines was caused by the flooding and dampness. The tenants claim for damages of \$100.00 for medicines fails.
57. In relation to item #16, the tenants are seeking reimbursement in the amount of \$56.00 for the costs associated with rental of a U haul. The evidence provided by the tenants for this hearing I accept as being the reason why they chose to exit the rental unit. Tenant1 offered testimony that she had left [REDACTED] by the middle of October 2023, at which time she relocated to her mother's residence. There was not a receipt offered to this Tribunal of the costs associated with the rental of a moving truck. The tenants claim for reimbursement succeeds in the amount of \$56.00 fails.
58. In regard to item #17 of a white stand, the tenants are seeking damages equaling \$50.00 for a bedroom stand. There was no testimony provided to indicate the age of this piece of furniture, how much the original cost was, no receipts for proof of purchase and there were no pictures of this stand prior to or after the flooding. Based on the evidence available to me with this claim, I do not have sufficient information to support the

applicants claim that the damage to the bedroom stand was caused by the flooding and dampness. The tenants claim for damages of \$50.00 fails.

Decision

59. The tenants claim for compensation for damages succeeds as follows:

- Bedframe/mattress.....\$1,557.37

- Total.....\$1,557.37

Issue 2: Compensation for inconveniences

Relevant Submissions

60. Tenant1 stated that she served the landlord a Despite for Resolution in person on 12 October 2023 (**Exhibit T # 1**). She stated the landlord, at that time, did not accept the documentation as, " the envelop was thrown at my car" (**Exhibit T # 2**). Following this situation, tenant1 stated they made a decision to have a courier serve the landlords in the amount of \$168.00 and they were seeking compensation.

Analysis

61. Under section 42 of the Act, the requirements for service of an application to director are defined.

Application to Director

42. (1) A landlord or tenant may, within one year after termination of the rental agreement, apply to the director to determine

- (a) a question arising under this Act or the regulations;*
- (b) whether a provision of a rental agreement has been contravened; or*
- © whether a provision of this Act or the regulations has been contravened.*

(2) An application under subsection (1) shall be submitted to the director in the form and with the fee set by the minister.

(3) The applicant shall serve the application submitted to the director under subsection (2) by

- (a) giving it personally to the other party;*
- ...*

Analysis

62. Tenant1 served the landlord personally on 12 October 2023 which is one of the identified methods of service as defined in the *Act*. The tenants choice to pay for a courier to serve the landlords the Application for Dispute Resolution was their choice and not required under the *Act*.

Decision

63. The tenants claim for compensation for inconveniences fails.

Issue 3: Hearing expense- \$20.00

64. The tenants submitted a receipt for the hearing expense for the Application for Dispute Resolution (**Exhibit T # 14**) and were seeking cost of the hearing expense in the amount of \$20.00.

Analysis

65. Policy Number 12-001 of the *Residential Tenancies Program, Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*, states, “*In most cases, the only costs allowed will be the application fee. This cost may be awarded regardless of whether or not the applicant requests this cost in the application*”. I find the tenants are entitled to the **\$20.00** hearing expense reimbursement as their application partially succeeds.

Decision

66. The tenants claim for hearing expense succeeds in the amount of **\$20.00**.

Summary of Decision

67. The tenants are entitled to a payment of **\$1,577.37**, determined as follows:

- a) Compensation for Damages.....\$1,557.37
- b) Hearing Expenses.....\$20.00
- c) Total owing to Tenants.....**\$1,577.37**

23 January 2024

Date

Michael J. Reddy
Residential Tenancies Office