

Residential Tenancies Tribunal

Application 2023-1075-NL
2023-1193-NL

Decision 23-1075-00

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 13-March-2024.
2. The applicant, [REDACTED] referred to hereinafter as the tenant, attended via teleconference.
3. The respondent, [REDACTED] referred to hereinafter as the landlord, also attended via teleconference.
4. The respondent called [REDACTED] as a witness. [REDACTED] is the person who repaired the alleged damages in the rental premises.

Issues before the Tribunal

5. Should the landlord's claim for damages be granted?

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018* (the Act).

Issue 1: Damages

Landlord's Position

7. The landlord claims for \$4403.05 in damages to be applied against the security deposit. The alleged damages consist of six distinct items. Five of these items were material and receipts were provided. \$1048.96 was claimed for materials to replace damaged carpeting and subfloor in the downstairs family room allegedly caused by urine and feces from the tenant's pets (LL#1 page 1). \$51.59 was claimed for materials used to clean mold and mildew and other dirt (LL#1 page 2). \$68.99 was claimed for materials to repair scratches on the stairs and moulding allegedly caused by the tenant's pets (LL#1 page 3). \$184.84 was claimed for paint and other materials used to repaint over

bedroom walls where the paint was allegedly scratched (LL#1 pages 4 and 6). \$23.67 was claimed for materials for the repair of damaged hinges on the back garden gate (LL#1 page 5). Finally, \$3025.00 was claimed for the labour of the witness, who performed all the preceding repairs plus a significant amount of cleaning. He testified that, for instance, the kitchen needed to be scrubbed three times to remove dirt and eliminate a foul odor. E-transfer receipts were provided showing the amounts paid to the witness (LL#1, pages 7-11).

Tenant's Position

8. The tenant agreed that she was responsible for the cost of the painting and the repair of damaged moulding but disputed all other damages. She testified that there was no smell, contrary to the testimony of the landlord and his witness. She acknowledged she caused one stain at the bottom of the stairs and had shampooed the carpet to remedy it. She acknowledged her animals had scratched the stairs but submitted that this fell under normal wear and tear. She testified that she had their nails trimmed regularly. She testified that she had no knowledge of some of the damage. The tenant submitted video evidence showing the condition of the house when she left, T#1-T#7.

Analysis

9. The witness testified that the carpets carried a strong and unpleasant odor and had urine and feces stains from the tenant's pets. The tenant said there was no such smell. Having examined the evidence in its totality, I accept on a balance of probabilities that there was such a smell. This is not to say the tenant was being untruthful. It may be that she had become slowly accustomed to the smell and no longer perceived it. The landlord's photo evidence supports this finding (LL#1 pages 15 and 16). The photos show that the stain had penetrated through the carpet. The witness testified that the pet excrement had penetrated the subfloor, making its replacement necessary. I accept his testimony.
10. The tenant's video evidence shows that most of the home was left in a clean state. However, the video regrettably does not include certain areas which are highlighted as problems in the landlord's evidence, for instance, most of the electrical room, where the landlord's photos show a significant buildup of pet hair and dirt, as well as damages to the walls and door. For clarity, I am not suggesting that the tenant deliberately omitted these areas. Her video candidly captures several other problem areas (T#2 at 34 seconds shows a patch of dirt on hardwood floor, T#3 shows patches of black discolouration on the carpet, and T#6 shows a significant amount of damage to the walls of a bedroom). However, having accepted the landlord's evidence and finding it to be uncontradicted by the tenant's evidence, I find the tenant responsible for the cleaning required as a result.
11. I do not agree with the tenant's submission that the damage on the stairs is consistent with regular wear and tear. The damage highlighted by the landlord's evidence, particularly compared with the photos from before the tenancy (LL#1 page 27), shows a more rapid loss of quality than one would normally expect over the course of a tenancy of this duration.

12. \$23.67 of the landlord's claim was for materials for the repair of a garden gate. No documentary evidence was provided of this gate. The landlord has not provided a sufficient evidentiary basis to support this portion of the claim and it is dismissed accordingly.
13. The landlord's witness testified under solemn affirmation as to the work he did on the property as well as the need for it, and he did so in a forthright and candid manner. He was responsive to questions and his testimony was consistent the other evidence presented. I accept his testimony regarding the labour he provided and its value.

Decision

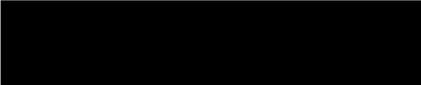
14. The landlord's claim for damaged carpet and subfloor succeeds in the full amount of \$1048.96.
15. The landlord's claim for cleaning supplies succeeds in the full amount of \$51.59.
16. The landlord's claim for scratches on the stairs and moulding succeeds in the full amount of \$68.99.
17. The landlord's claim for repainting supplies succeeds in the full amount of \$184.84.
18. The landlord's claim for materials for the repair of a damaged gate fails.
19. The landlord's claim for compensation for the labour of the witness succeeds in the full amount of \$3025.00
20. The landlord's damages claim succeeds in the amount of \$4379.38.
21. The landlord is owed moneys and may therefore apply the \$1125 security deposit against the amount owed.
22. The landlord's claim succeeds for an amount in excess of the security deposit and he is therefore entitled to costs. In this case, his costs consist solely of the \$20 hearing fee.

Summary of Decision

23. The tenant shall pay to the landlord \$3274.38 as follows:

| | |
|----------------------------|---------------|
| Damages..... | \$4379.38 |
| Less Security Deposit..... | (\$1125.00) |
| Hearing costs..... | \$20.00 |
| Total..... | \$3274.38 |

3-April-2024
Date


Seren Cahill
Residential Tenancies Office