

Residential Tenancies Tribunal

Application 2023-1166-NL

Decision 23-1166-00

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 16-January-2024.
2. The applicants, [REDACTED] and [REDACTED] hereinafter known as the Landlords, appeared via teleconference.
3. The respondent [REDACTED] appeared via teleconference on behalf of himself and co-respondent Sunita Tebo. They are hereinafter referred to as the tenants.

Issues before the Tribunal

4. Should the landlords' claim for damages be granted?

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 (RTA 2018)*.

Issue 1: Claim for Damages

Landlord's Position

6. The landlord claims that they are owed \$3008.52. \$1368.27 of this total is for the replacement of a damaged countertop, \$845.25 for cleaning services, \$75.00 for the replacement of a damaged thermostat, and \$120 for the repair of a damaged wall, and \$600 for the replacement of damaged laminate flooring.

Tenant's Position

7. The tenants claim that the countertop and floor were damaged when they moved in. They add that they cleaned the house before moving out and if the landlords were dissatisfied with the level of cleanliness on move out, they could have said so during the final walkthrough and the issues would have been addressed. They did admit their son

drew on the walls. They claim that the thermostat came free from the wall during normal use and they had raised the issue with the landlord, but nothing had been done.

Analysis

8. Pictures were provided showing rings on the countertop and floor, likely caused by a person laying a hot pan or pot directly on these surfaces. The landlords claimed these burns were caused by the tenants. The tenants claim that the burns were pre-existing, and that the landlords would have known this had they done a walkthrough on the initial move in. No pictures were provided of the countertop or floor before the tenancy began.
9. Pictures were provided showing the level of cleanliness in the house shortly after the tenant moved out. In particular, the landlords pointed to build up along the top of the baseboards and elsewhere which they say is oil dispersed by frying food on the stove. They say they paid a professional cleaning service \$845.25 to clean the premises. No receipt was provided, but it was represented as being 21 hours at \$35 an hour plus 15% HST. This is an unreasonable amount of time to clean the level of uncleanliness demonstrated by the evidence. I estimate it should take a professional at most 6 hours to clean the premises, even considering the extra scrubbing required to remove oils.
10. The onus is on the tenant to clean the premises before the termination of the lease. The landlords not noting inadequacies in the cleanliness and giving the tenants another opportunity to address these is not relevant to the tenants' liability for failure to keep the premises clean. In other words, the tenant is not necessarily entitled in law to another chance to clean.
11. The landlord claims the thermostat was damaged by the tenant. The tenant claims it was not. No pictures of the thermostat before the tenancy began were provided.
12. Pictures were provided of the damaged wall. The tenant did not meaningfully contest their liability for this damage.

Decision

13. I find that the landlords have not established on a balance of probabilities that the burn rings were caused by the tenants. Accordingly, the claim for \$1368.27 for the damaged countertop and the claim for \$600 for the damaged floor fail.
14. The landlord has established on a balance of probabilities that the tenant failed to adequately clean the apartment and their claim partially succeeds in the amount of \$241.50.
15. I find that the landlords have not established on a balance of probabilities that the thermostat was damaged by the tenant and therefore their claim for \$75 for the damaged thermostat fails.
16. The landlord has established on a balance of probabilities that the tenant owes \$120 for the repair of a damaged wall.

17. As the landlord has succeeded in part in their application, they are entitled to have their hearing costs covered. In this case that amounts to the \$20 application fee.

Summary of Decision

18. The tenant shall pay to the landlord \$381.50 as follows:

Damages.....\$361.50
Hearing Costs.....\$20.00

Total.....\$381.50

31-January-2024

Date

[Redacted]
Seren Cahill
Residential Tenancies Office