

Residential Tenancies Tribunal

Application 2024-0209-NL & 2024-0291-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 1:52 PM on 13 May 2024 via teleconference. The hearing was to adjudicate two separate applications: 2024-0209-NL and 2024-0291-NL.
2. [REDACTED], hereinafter referred to as “the landlord”, attended the hearing.
3. [REDACTED], hereinafter referred to as “the tenant”, attended the hearing.

Preliminary Matters

4. The tenant submitted an affidavit of service indicating the landlord was served with an Application for Dispute Resolution electronically ([REDACTED]) at 2:49 PM on 25 March 2024 (**Exhibit T # 1**). The landlord did not dispute receipt of this notification.
5. The landlord submitted an affidavit of service indicating the tenant was served with an Application for Dispute Resolution electronically ([REDACTED]) at 10:44 AM on 29 April 2024 (**Exhibit L # 1**). The tenant did not dispute receipt of this notification.
6. Both the landlord and the tenant were issued a Notice of Rescheduled Hearing (**Exhibit # 1**).
7. There was a written monthly rental agreement (**Exhibit L # 2**) which commenced on 1 November 2021 until 29 February 2024 when the tenant vacated the rental premises. Rent was set at \$750.00. There had been a security deposit collected on the tenancy of \$562.50 prior to occupancy and is in the landlord’s possession.
8. 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.

Issues before the Tribunal

9. The landlord is seeking the following:
 - Compensation for damages in the amount of \$1,711.24;
 - \$20.00 application fee; and
 - the security deposit to be used against the monies owing.
10. The tenant is seeking the following:
 - A refund of the security deposit of \$562.50.

Legislation and Policy

11. The jurisdiction of the Director of Residential Tenancies is outlined in Sections 46 and 47 of the *Residential Tenancies Act, 2018*.
12. Also, relevant and considered in these cases are Sections 14 of *the Act*, along with Policy Number 09-003: *Claims for Damages to Rental Premises*, 09-005: *Depreciation and Life Expectancy of Property*, 10-001: *Application for Security Deposit* of the *Residential Tenancies Program*, and 12-001: *Costs*. As well, *The National Association of Home Builders: Study of Life Expectancy of Home Components*, 200.

Issue 1: Compensation for Damages of \$1,711.24 (including \$20 hearing expense)

Landlord Position

13. The landlord testified that there was a written monthly rental agreement in place for the one-bedroom apartment in a two-apartment trailer at [REDACTED]. The tenancy was effective 1 November 2021 until 29 February 2024 with rent set at \$750.00 per month.
14. The landlord is seeking compensation for damages in the amount of \$1,711.24. Those damages the landlord broke down into 15 separate items (**Exhibit L # 3**). Those items will be grouped under headers in this decision.
15. Along with her application, the landlord provided pictures of the rental prior to occupancy (**Exhibit L # 4**), along with pictures after the tenant vacated in February 2024 (**Exhibit L # 5**).

Paint and Supplies

16. The landlord testified she was seeking \$234.03 for paint and painting supplies as the rental had been painted prior to the tenant's occupancy and the rental had to be repainted after the tenant vacated which she attributed to the tenant's smoking inside the property.
17. With her application, the landlord provided pictures of the walls and ceilings of the rental prior to the tenant's occupancy (**Exhibit L # 4**), along with pictures after the tenant vacated (**Exhibit L # 5**). There were two receipts provided by the landlord the first in the

amount of \$118.40 identified as Receipt # 1 (**Exhibit L # 6**) and a second in the amount of \$115.63 identified as Receipt # 5 (**Exhibit L # 7**).

18. The tenant disputed he smoked inside the rental.

Doorknobs

19. The landlord stated she is seeking \$29.39 to repair and replace doorknobs damaged by the tenant. With her application, the landlord provided pictures of the rental prior to the tenancy (**Exhibit L # 4**), along with pictures after the tenant vacated (**Exhibit L # 5**). There was no suggested ages of the doorknobs. The landlord testified the doorknobs were not there after the tenant vacated. There was a receipt with the application identified as Receipt # 2 (**Exhibit L # 8**) with the application which reflects the purchase of three Ivory Knobs equaling \$15.87.
20. The tenant testified the doorknobs are plastic and there was only one missing when he vacated the rental. He disputed that he should be responsible for these items.

Toilet Seat

21. The landlord testified she is seeking \$29.89 to replace the damaged toilet seat of the rental. With her application, the landlord provided pictures of the rental prior to the tenancy (**Exhibit L # 4**), along with pictures after the tenant vacated (**Exhibit L # 5**). There was a receipt with the application identified as Receipt # 3 (**Exhibit L # 9**) with the application which reflects the purchase of a toilet seat in amount of \$25.99 plus tax. There was no testimony offered about the age of damaged toilet seat.
22. The tenant did not dispute that the toilet seat had to be replaced as he stated his son caused this damage. He stated he had previously requested the landlord to replace this damaged item.

Treatment for Fleas

23. The landlord stated she was seeking compensation of \$23.00 for treatments for fleas. She attributed this being due to the tenant having two cats inside the rental and while she was cleaning the rental property she was bitten by fleas. There was a receipt with the application identified as Receipt # 4 (**Exhibit L # 10**) with the application which reflects the purchase of \$23.00.
24. The tenant did not dispute that he had two cats. He did dispute that both had fleas as he testified both were treated monthly for prevention of fleas.

Folding Door and repair kit

25. The landlord is seeking \$44.55 for folding doors which were damaged by the tenant and had to be replaced. Included in with this amount is cost for a new door (\$25.37), cleaning supplies for the door (\$9.49) and a folding door track (\$9.69). The landlord did not offer any testimony of the age of this door but stated the tenant had removed the door from the rental and placed it outside.

26. The tenant did not dispute that he placed the door outside, but stated it was not working properly when he moved in as it did not have a track as it fell and “damaged” the wall. He testified he had requested the landlord to previously repair this door.

Cleaning Supplies

27. The landlord testified she purchased cleaning supplies in the amount of \$13.80 as the rental had to be cleaned prior to securing new tenants of the rental. Along with her application, the landlord provided pictures of the rental after the tenant had vacated (**Exhibit L # 5**). There was a receipt with the application identified as Receipt # 7 (**Exhibit L # 11**) with the application which reflects the purchase of cleaning supplies in the amount of \$13.80.
28. The tenant testified there was no reason for his security deposit to be withheld.

Air Diffuser

29. The landlord purchased an air diffuser from Kent Building Supplies in the amount of \$22.87 which she was seeking compensation for as she testified after cleaning the rental, the smell of cigarette smoke was still present, and this item had to be purchased and used to rid the rental of the smell of smoke. There was a receipt with the application identified as Receipt # 8 (**Exhibit L # 12**) with the application which reflects the purchase of an air diffuser in amount of \$22.87.
30. As indicated herein, the tenant testified he did not smoke inside the rental.

Labor Costs

31. The landlord was seeking \$820.00 for labor costs for the rental to be cleaned and painted. With her application, the landlord provided pictures of the rental after the tenant vacated (**Exhibit L # 5**), along with two receipts indicated as Receipt # 9 in the amount of \$700.00 for [REDACTED], identified as someone the landlord paid to complete repairs of the rental (**Exhibit L # 13**) indicated as Receipt # 10 in the amount of \$120.00.

Transition Strips

32. The landlord testified she was also seeking compensation for two transition strips and labor to install in the amount of \$202.45. The pictures of the rental following the tenant vacated reflects the transition strips. Along with her application, she provided a copy of a receipt for this item (**Exhibit # 14**). There was no information about the ages of the transition strips between the kitchen area and living room area of the rental.
33. The tenant did not dispute that he damaged the transition strips.

Inconvenience

34. The landlord was seeking compensation for three hours of her personal time to assist with cleaning of the rental unit. As well, the landlord testified she was also seeking

compensation in the amount of over 10 hours of her personal time for the cleaning, repairing and preparing the application and evidence for this hearing equaling \$100.00.

35. The tenant disputed the landlord's claim.

Rent Lost

36. The landlord stated she was seeking completion \$154.84 for 6 days which the rental was uninhabitable and calculated this amount to be determined by the monthly rental of March 2024 (\$800.00) for 6 days.

Analysis

37. The landlord claims for \$1,711.24 in damages, divided amongst 11 items. Each item will be dealt with individually below. As stated in Residential Tenancies Program Policy and Procedure Guide policy 09-003, applicants seeking damages must provide sufficient evidence to establish the cost of repairing or replacing the damaged items and to establish the extent of the damage.
38. The landlord claims \$234.03 for paint and painting supplies. She testified the rental had been painted prior to the tenancy and offered pictures both before the tenant's occupancy (**Exhibit L # 4**) and after (**Exhibit L # 5**), along with receipts for the costs of those items (**Exhibit L # 6 & 7**). The landlord claimed the need for repainting was due to the tenant's alleged smoking in the rental, a claim which the tenant disputed.
40. As specified by the *National Association of Home Builders: Study of Life Expectancy of Home Components, 2007*, the life expectancy for interior paint is over 15 years. The tenant was presented as moving into the rental in November 2021 and vacated by February 2024. The pictures offered with this application of the before and after tenancy shows discoloration between both sets of pictures. Section 09-005 of the *Residential Tenancies Program: Depreciation and Life Expectancy of Property* outlines the depreciation calculation. That calculation is cost of replacement/repair ÷ total years of expected lifespan) x years remaining in lifespan. The landlord testified the rental had been painted prior to the tenant's occupancy in 234.03 ÷ 15 years of expected lifespan = 15.60 x 12 years of expected lifespan = \$187.20. Viewing the evidence in its totality, I conclude on a balance of probabilities the tenant is responsible for the costs of repainting the rental. This portion of the landlord's claim succeeds in the amount of **\$187.20**.
41. The landlord claims \$15.87 for doorknobs. She offered pictures, along with the receipts for costs of the items. The tenant admitted one plastic doorknob was missing during his tenancy. I conclude on a balance of probabilities that the tenant is liable for the expense of one plastic doorknob in the amount of **\$5.29**.
42. The landlord claims **\$29.89** for a toilet seat. The tenant ceded this was appropriate. This portion of the landlord's claim succeeds.

43. The landlord claims \$23.00 for flea treatments. Viewing the evidence in its totality, I am unable to assess the extent of the requirement for treatment of fleas, and therefore am not able to evaluate whether the level of compensation is legitimate. The landlord has failed to meet the evidentiary onus, and this portion of the claim therefore fails.
44. The landlord claims \$44.55 for folding doors and required items to install. This claim is broken down as \$25.37 for the door, \$9.49 to clean the door and \$9.69 for a folding door track. The tenant testified the door track was not in place when he took occupancy of the rental but stated he did place the door outside due to it falling off the hinge. I conclude the tenant is liable for the cost of the door in the amount of **\$25.37**.
45. The landlord claims \$13.80 for cleaning supplies. Pictures were provided inside the rental. I conclude on a balance of probabilities the tenant is liable for this extra expense. This portion of the landlord's claim succeeds in the amount of **\$13.80**.
46. The landlord claims \$22.87 for an air diffuser. Viewing the evidence in totality, I am unable to access the extent of the need for this item, and therefore am not in position to evaluate whether the compensation claimed was required. This portion of the claim fails.
47. The landlord claims \$820.00 for labour costs. Pictures were provided of the rental and the landlord's claims for painting, cleaning, and removal of garbage succeed as indicated herein. The landlord testified and provided evidence that a contractor had been hired. Contractors commonly charge up to \$500.00 per day. In totality, the landlord's claim for painting, cleaning, replacement of doorknobs, a toilet seat, a folding door and two transition strips could be completed by an able-bodied individual in a half a trailer in one day. This portion of the landlord's claim succeeds in the amount of **\$500.00**.
48. The landlord claim \$202.45 for two transition strips succeeds. The tenant did not dispute he caused damage to both items. This portion of the landlord's claim succeeds in the amount of **\$202.45**.
49. The landlord claims \$100.00 for inconveniences broken down as 3 hours she helped clean and repair the rental, along with 10 hours of preparing the application and evidence for this matter. The landlord's claim for compensation for a contractor succeeds. Her claim for both her assistance to the contractor and her time spent in preparation for the Application for Dispute Resolution fails as preparing documents, evidence and getting ready to offer testimony for a hearing is considered the costs of being a landlord in the rental market.
50. The landlord claims \$154.84 for rent lost broken down for 6 days. The landlord described the rental as "uninhabitable" in her evidence. There was no evidence to suggest this rental was uninhabitable as there was no evidence or testimony from a regulatory authority identifying this rental as such. Furthermore, the landlord did not offer any evidence that she attempted to rent out the property after the tenant vacated. Viewing the evidence in its totality, I am unable to assess the extent that the property could not be rented. The landlord has failed to meet the evidentiary onus, and this portion of her claim fails.

Decision

51. The landlord's claim for compensation for damages succeeds in the amount of **\$964.00** as follows:

▪ Paint and Painting Supplies.....	\$187.20
▪ Plastic Doorknob.....	\$5.29
▪ Toilet Seat.....	\$29.89
▪ Folding Door.....	\$25.37
▪ Cleaning Supplies.....	\$13.80
▪ Labour Costs.....	\$500.00
▪ Transition strips.....	\$202.45
▪ Total.....	<u>\$964.00</u>

Issue 2: Hearing Expense

52. The landlord is seeking \$20.00 compensation for the hearing expense. Along with her application, she provided a copy of the hearing receipt (**Exhibit L # 15**).

Decision

53. As part of her application succeeds, this portion of her claim succeeds in the amount of **\$20.00**.

Issue 2: Security Deposit used against monies owing/ Return of Security Deposit = **\$562.50**

54. As the landlord is owed compensation for damages, she is entitled to apply the security deposit against the sum owed. The security deposit in this case is \$562.50. Section 14(7) of the *Act* states the landlord shall credit interest to the tenant on the full amount or value of the security deposit, at the rate prescribed by the regulations, during the time the security deposit is held by the landlord. Prior to 2024, the interest rate prescribed by the regulations was 0% for the relevant years. In 2024, the rate was set to 1% cumulative simple annual interest. That results in total interest at the time of the hearing being \$2.07, for a total of **\$564.57**.

Decision

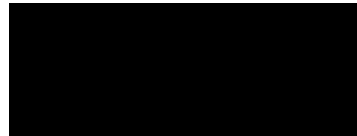
55. The landlord may apply the **\$564.57** security deposit with interest against the moneys owed.

Summary of Decision

56. The tenant shall pay to the landlord **\$420.56** as follows:

- a) Damages.....\$964.00
- b) Hearing expenses.....\$20.00
- c) Less Security Deposit.....\$564.57
- d) Total.....**\$419.43**

16 August 2024
Date



Michael Reddy, Adjudicator
Residential Tenancies Office