

Residential Tenancies Tribunal

Application 2024-0230-NL
Application 2024-0298-NL

Decision 24-0230-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:04 a.m. on 14-May-2024.
2. The applicants, [REDACTED] and [REDACTED] hereinafter referred to as "the tenants" attended by teleconference.
3. The respondent and counter applicant, [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.

Preliminary Matters

4. The tenants submitted an affidavit with their application stating that they had served the landlord with the notice of hearing electronically by email to; [REDACTED] on 1-April-2024 (TT#1). The landlord confirmed receipt of the document on that date. The landlord countered the claim within the 10-day time limit and submitted 2 affidavits stating that he served the tenants with the notice of hearing electronically by email to; [REDACTED] and [REDACTED] on 11-April-2024 (LL#1). The tenants confirmed receipt of the documents on that date. In accordance with the *Residential Tenancies Act, 2018*, this is good service.
5. There was a written fixed rental agreement that commenced on 1-February-2023. The tenants vacated the premises on 29-February-2024. Rent was \$1800.00 per month, due on the first of each month. A security deposit of \$1300.00 was paid in January 2023 and \$650.00 was refunded once the tenancy ended. The remaining \$650.00 is still in the landlord's possession.

Issues before the Tribunal

6. The tenant is seeking:
 - Refund of security deposit \$650.00
7. The landlord is seeking:
 - Compensation for damages \$626.32
 - Security deposit applied against monies owed \$626.32.

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 14; Security Deposit. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Policy Manual*, Section 9-3: Claims for damage to rental premises.

Item # 1: Compensation for damages \$626.32

Relevant Submission

10. The landlord testified that there was damage to one of the closet doors, damage to the remote for the television and the unit needed cleaning. The landlord is seeking the cost to replace the door and the remote and the cost to have the unit cleaned in the amount of \$626.32. The landlord submitted a damages ledger (LL#2) as follows:

Compensation for Damages

Submitted by: [REDACTED]

Date: Apr 3 / 2021

Applicant: [REDACTED]

Respondent: [REDACTED]

Item #	Description of Damages	Compensation Claimed
1	closet door has hole in it	219.65
2	Remote was chewed up by dog	27.17
3	Cleaning - house was really dirty	379.50

Landlord's Position

11. The landlord testified that one of the closet doors had a crack / hole in it and needed to be replaced. The landlord submitted a photograph of the door to show the damage (LL#3) and also submitted a receipt from *Kent* in the amount of \$219.65 to support the claim (LL#4). The landlord testified that the remote for the television was damaged as a result of a dog chewing it and a photograph was also entered into evidence to show the damage (LL#5). The landlord submitted an estimate of \$23.64 plus tax from *Walmart* to show the cost to replace the remote (LL#6). The landlord also testified that the unit was not cleaned to his satisfaction, and he incurred the cost of a cleaning person to clean the unit at a cost of \$379.50. The landlord submitted a copy of the invoice from *CJD Janitorial* to support the claim (LL#7) and a list of the items that needed cleaning (LL#8).

Tenant's Position

12. The tenants disputed that they caused any damage to the closet door and claimed that on the first night of the tenancy, the door fell into a wooden bedframe causing the crack / hole as the door was not attached to the wall. The tenants did not dispute that a dog chewed the remote but did state that they left a firestick to replace the damaged remote. Finally, the tenants did not dispute that the unit needed a small amount of cleaning as they left a day earlier than they had anticipated. The tenants testified that they left the unit mostly clean and were waiting to have their regular cleaning person arrive on 1-March to clue up a few things within the kitchen area including dusting. The tenants stated that they would have paid their cleaning person \$150.00 to finish the work and suggested that this would be a fair amount to reimburse the landlord.

Analysis

13. In accordance with *Residential Tenancies policy 9-3*, the applicant is required to show:

- *That the damage exists;*
- *That the respondents are responsible for the damage, through a willful or negligent act;*
- *The value to repair or replace the damaged item(s)*

14. In accordance with Section 9-3 of the *Residential Tenancies Policy* as stated above, the landlord was able to show that the damage exists to the closet door. The tenants disputed that they caused the damage and testified that the door was not attached to the wall and fell into the wooden bed frame causing the damage. I asked the tenants if they had any photographs to show that the door was not hung properly, and I also asked them if they made the landlord aware that the door was not in place or that the door had fallen causing damage and they stated that they did not. The landlord testified that the door was new and properly installed. Based on the testimony of both parties and photographs entered into evidence, I accept the landlord's testimony that the door was in place when the tenants took possession of the property and the damage occurred during the tenancy. I find that the tenants are responsible to replace the door at the cost of \$219.65 as sought by the landlord.

15. With regards to the remote, the tenants did not dispute that a dog caused the damage but stated that they felt that a firestick was a sufficient substitute for the remote. I find that the firestick is not the remote and as such the tenants are responsible for the cost to replace the remote at \$27.17 as sought by the landlord.

16. With regards to the cleaning required within the unit, the landlord submitted a written list of what needed to be cleaned, which was provided to him by the cleaning company, *CJD Janitorial*. The landlord did not submit any photographs to support the claim and based on the items on the list from the cleaning company, I accept that some of the items are legitimate items that require cleaning like the fridge and the stove, however I accept that some of the other items would not be expected to be cleaned by tenants such as fingerprints on glasses and dust on the top of kitchen cupboards. As I do not have photographs to determine the level of cleanliness in the unit, and in accordance with

Section 9-3 of the *Residential Tenancies Policy* as stated above, I find that the landlord was unable to show the extent of the work that was required and as such, I find that the tenants are responsible for cleaning in the amount of \$150.00 as suggested by the tenants and as per their usual cleaning fee.

Decision

17. The landlord's claim for compensation for damages succeeds in the amount of \$396.82.

Issue # 3: Refund of Security Deposit \$650.00

Security Deposit applied against monies owed \$626.32

Analysis

18. Section 14 of the *Residential Tenancies Act, 2018* deals with security deposits, and the relevant subsections state:

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.
 - (10) Where a landlord believes he or she has a claim for all or part of the security deposit,
 - (a) the landlord and tenant may enter into a written agreement on the disposition of the security deposit; or
 - (b) the landlord or the tenant may apply to the director under section 42 to determine the disposition of the security deposit.
 - (11) Where a tenant makes an application under paragraph (10)(b), the landlord has 10 days from the date the landlord is served with a copy of the tenant's application to make an application to the director under paragraph (10)(b).
 - (12) A landlord who does not make an application in accordance with subsection (11) shall return the security deposit to the tenant.
19. The landlord's claim for losses has been partially successful as per paragraph 17 and as such the security deposit shall be partially applied against monies owed. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to a tenant for the entire period that the landlord has had the security deposit. The interest is calculated as simple interest and is not compounded. The annual interest for 2023 was 0% and is currently 1% for 2024.

Decision

20. The tenant's claim for a refund of the security deposit succeeds in the amount of \$253.18.

21. The landlord's claim to have the security deposit applied against monies owed partially succeeds in the amount of \$396.82.

Summary of Decision

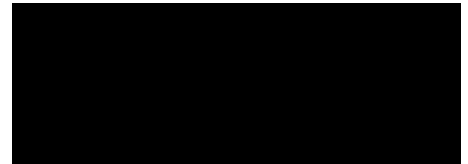
22. The landlord shall refund the security deposit plus interest to the tenants in the amount of \$255.35.

23. The tenant shall pay the landlord \$0.00 as follows:

Compensation for damages	\$396.82
Less partial security deposit	396.82
Total	<u>\$0.00</u>

May 22, 2024

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office