

## Residential Tenancies Tribunal

Application 2024-0393-NL

Seren Cahill  
Adjudicator

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### Introduction

1. Hearing was held on 10-July-2024 at 9:14 am.
2. The applicant, [REDACTED], hereinafter referred to as the landlord, attended via teleconference.
3. The respondent, [REDACTED], hereinafter referred to as the tenant, also attended via teleconference.

### Preliminary Matters

4. The respondents acknowledged they received notice of this hearing more than ten days before the hearing date.

### Issues before the Tribunal

5. Should the landlord's claim for damages be granted?
6. What is the proper disposition of the security deposit?

### Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Act*.

### Issue 1: Damages

#### Landlord's Position

8. The landlord seeks \$13175 in damages, consisting of \$7243.40 in materials and \$5932 in labour in relation to an incident which occurred on 3-February-2024. On this day, the landlord says he was alerted of an incident at the premises and attended to find police and the tenant already present. Extensive damage had been done to the premises. He submits that the tenant invited the person who caused the damage onto the premises

and argues that she is therefore liable for the repairs under statutory condition 2, as listed in section 10(1) of the Act.

### Tenant's Position

9. The tenant denies allowing the person who damaged the premises entry. She says she was the victim of a break-in and assault.

### **Analysis**

10. The tenant testified clearly as to how she said the incident occurred. Her narrative was internally consistent. It was not shown to be contradicted by any other evidence. Her story was plausible.
11. The landlord was not present for the incident. In submitting that the tenant allowed the person who caused the damage onto the premises, he relies on a document (LL#1) which he submitted into evidence. LL#1 is an email from an officer of the RCMP. Excepting salutations and closing, it reads as follows:

"In relation to the matter that occurred on February 3, 2024, it was originally reported to police that a break and enter occurred at your residence situated at [REDACTED] in [REDACTED], NL. Other allegations were made but those details are not disclosable at this time.

Through a thorough investigation, police uncovered evidence that suggests the accused was permitted inside the dwelling. This evidence lead [sic] the [REDACTED] RCMP to be of the belief that a break and enter did not occur.

Please note: due to an ongoing investigation I cannot disclose more details of the matter.

Please feel free to contact me with any questions or concerns."

12. The tenant acknowledges the RCMP came to this conclusion but says they are mistaken.
13. LL#1 is hearsay evidence. It is the unsworn words of another presented as evidence of the truth of their contents. Hearsay evidence is generally inadmissible in court for a variety of reasons, but primarily because it is known to be unreliable. Section 46(2)(c) allows the director and therefore this tribunal to receive or accept evidence and information on oath, affirmation, affidavit or otherwise, whether or not that evidence or information is admissible as evidence in a court. I therefore accept LL#1 into evidence with the caveat that I am mindful of the issues concerning hearsay evidence and afford LL#1 reduced weight accordingly.
14. LL#1 does not disclose how police arrived at the conclusion that the tenant allowed the alleged intruder onto the premises.
15. Based on the evidence in its totality, I find on a balance of probabilities that the tenant did not allow the person who caused the damage onto the property. The damage was

therefore caused by a home intruder, and the tenant is not liable. The landlord's claim for damages fails.

### **Issue 2: Disposition of the Security Deposit**

16. As the landlord's claim against the security deposit was unsuccessful and the tenancy has ended, it must be returned to the tenant. The security deposit in this case was \$625. S. 14(7) of the Act mandates that a 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. In 2023, the regulations prescribed 0% interest. In 2024, the regulations prescribed 1% cumulative simply compound interest. Calculating to the date of the hearing provides for total interest of \$3.30. The total amount to be returned is therefore \$628.30.

### **Decision**

17. The landlord's claim for damages fails.
18. The landlord shall pay to the tenant the \$628.30 security deposit with interest.

### **Summary of Decision**

19. The landlord shall pay to the tenant the \$628.30 security deposit with interest.

2-August-2024

Date

  
Seren Cahill  
Residential Tenancies Office