

Residential Tenancies Tribunal

Application 2024-0520-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:59 p.m. on 1-August-2024.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” did not attend the hearing. [REDACTED], authorized representative (LL#1) attended by teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants” did not attend.

Preliminary Matters

4. The tenants were not present or represented at the hearing and I was unable to reach them by telephone at the start of the hearing. This Tribunal’s policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of hearing 10 clear days prior to the hearing date and, where the respondents fail to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent’s absence so long as they have been properly served. The landlord submitted an affidavit with his application stating that he had served the tenants with the notice of hearing electronically by email to: [REDACTED] and [REDACTED] on 12-July-2024 (LL#2). The landlord submitted proof of sent emails and proof of email addresses (LL#3). In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.
5. There was a written fixed term rental agreement which commenced on 8-May-2023. The tenants vacated the unit on or before 30-May-2024. Rent was \$2100.00 per month, due on the first day of each month. A security deposit of \$1000.00 was paid on 7-May-2023 and is in the landlord’s possession.

Issues before the Tribunal

6. The landlord is seeking:
 - a. Validity of the termination notice
 - b. Rent paid \$2100.00
 - c. Utilities paid \$100.00
 - d. Compensation for damages \$1650.00
 - e. Hearing expenses \$20.00
 - f. Security deposit to be applied against monies owed \$1000.00

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in Sections 46 and 47 of the *Residential Tenancies Act, 2018*. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 14: Security deposit and Section 34: Requirements of notices. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Policy Manual*: Section 9-3: Claims for damages to rented premises, Section 9-5: Life expectancy of property and Section 12-1: Recovery of Costs.

Issue # 1: Validity of the Termination Notice

Relevant submission

8. The landlord submitted a copy of a standard termination notice that was issued to the tenants on 29-April-2024 to vacate on 31-July-2024 (LL#4). The landlord's representative testified that the tenants abandoned the unit sometime during the end of May and stated that the landlord noticed that the unit was vacate on 30-May-2024.

Landlord's Position

9. The landlord's representative stated that the landlord wishes to establish that the tenants did not provide a proper termination notice allowing them to vacate the unit prior to 31-July-2024. The landlord wishes to establish the validity of their early departure in support of *rent paid*.

Analysis

10. Section 34 of the *Residential Tenancies Act, 2018*: Requirements for Notices states:

34. Requirements for Notices

A notice under this Act shall

- a. *be in writing in the form prescribed by the Minister;*
- b. *contain the name and address of the recipient;*
- c. *identify the residential premises for which the notice is given; and*
- d. *state the section of the Act under which the notice is given*

11. The tenants did not provide the landlord with any type of notice and abandoned the unit. In accordance with Section 34 of the *Act* as stated above, I find that the tenants did not provide a valid termination noticed to the landlord.

Decision

12. The tenants did not provide a valid termination notice.

Issue # 2: Rent paid \$2100.00

Landlord's Position

13. The landlord's representative testified that rent is outstanding in the amount of \$2100.00 for the month of June as the tenants abandoned the unit sometime during the last week of May 2024.

Analysis

14. It has been determined that the tenants abandoned the unit sometime during the end of May 2024 without providing the landlord with a proper termination notice as per paragraph 12. I asked the landlord's representative when the unit was re-rented, and she responded that she was unsure of the date and stated that the unit was not ready immediately due to damages. I accepted the landlords post hearing submission which shows that the unit was re-rented effective 10-June-2024 and I accept that the landlord was unable to re-rent the unit prior to that date due to damages. Landlords should not incur any financial hardship due to negligence on the part of tenants, and for that reason, I find that the tenants are responsible for a prorated payment of rent for the period of June 1-9 in the amount of \$630.00.

Decision

15. The landlord's claim for *rent paid* succeeds in the amount of \$630.00.

Issue # 3: Utilities paid \$100.00

Relevant Submission

16. The landlord is seeking reimbursement of the utilities bill for the vacant period of June 1-9 when the electricity was transferred back into the landlord's name. I accepted the landlord's post-hearing submission from *NL Power* to support the claim (LL#5).

Landlord's Submission

17. The landlord's representative testified during the hearing that the landlord did not know the exact amount of the outstanding utilities as he had not received the bill when he made application and the landlord's representative stated that the landlord estimated the amount to be approximately \$100.00.

Analysis

18. In accordance with the rental agreement (LL#6) the tenants were responsible for utilities and as stated earlier in paragraph 14, landlords should not incur any financial hardship due to negligence on the part of tenants. Also, based on the *NL Power* bill that was submitted post-hearing, I find that the tenants are responsible for the outstanding utilities for the period of June 1-9 in the amount of \$26.58.

Decision

19. The landlord's claim for *utilities paid* succeeds in the amount of \$26.58.

Issue # 3: Compensation for Damages \$1650.00

Relevant Submission

20. The landlord's representative testified that there were damages / losses to the rental unit in the amount of \$1650.00 and the landlord submitted a damages ledger to support the claim (LL#7). See copy of damages ledger below:

Item #	Description of Damages	Compensation Claimed
E.g.	3cm x 3cm hole in bathroom wall	\$ 75.00
1	Gyproc/wall damage to stair well/paint	\$ 100.00
2	Living Room multiple holes from nails-plaster paint	\$ 200.00
3	Blinds to Living Room window damaged-melted	\$ 250.00
4	Bedroom #2, all walls mutiple holes . Plaster and paint	\$ 250.00
5	Outside cornor damaged, siding needs replacing	\$ 200.00
6	Outlet replaced. #3 bedroom	\$ 100.00
7	Deep cleaning for 7.5 hrs.	\$ 150.00
8	Light fixture broken, needs replacing bedroom #2	\$ 75.00
9	Utilities Bill month of June	\$ 100.00
10	Trim moulding missing from BR #2, reapplied to BR #1	\$ 75.00
11	Return of Possessions-microwave	\$ 150.00

Landlord's Position

21. The landlord's representative testified that the above noted items have been identified as damages / losses to the unit caused by negligence on the part of the tenants. The landlord's position on each item is as follows:

Item # 1: Replace gyproc to stairwell and paint (\$100.00) – The landlord's representative testified that there was damage to the wall in the stairwell going to a room in the basement which needed to be plastered and painted. The landlord submitted a photograph of the wall to support the claim (LL#8) and the landlord is claiming \$100.00 to cover the cost of materials and labor to patch the damaged wall.

Item # 2: Plaster and paint living room (\$200.00) – The landlord's representative testified that there was damage to the wall in the living room consisting of multiple holes which needed to be plastered and painted. The landlord submitted a photograph of the wall to support the claim (LL#9) and the landlord is seeking \$200.00 to cover the cost of materials and labor to repair the wall.

Item # 3: Blinds damaged in living room (\$250.00) - The landlord's representative testified that the blind in the living room window was damaged and needed to be replaced. The landlord submitted a photograph of the blind to support the claim (LL#10) and the landlord is seeking \$250.00 to cover the cost to replace the blind.

Item # 4: Plaster & paint walls in bedroom #2 (\$250.00) – The landlord's representative testified that there was damage to the wall in bedroom # 2 and the room needed to be plastered and painted. The landlord submitted a photograph of the wall to support the claim (LL#11) and the landlord is seeking \$250.00 to cover the cost of materials and labor to plaster and paint.

Item # 5: Replace siding to corner (\$200.00) – The landlord's representative testified that the exterior vinyl corner post of the house was cracked and needed to be replaced. The landlord submitted a photograph of the damage to support the claim (LL#12) and the landlord is seeking \$200.00 to cover the cost of materials and labor to replace the post.

Item # 6: Replace outlet in bedroom # 3 (\$100.00) – The landlord's representative testified that there was damage to the wall outlet in bedroom # 3 consisting of burn marks and black residue. The landlord submitted a photograph of the outlet plate to support the claim (LL#13) and the landlord is seeking \$100.00 to cover the cost of a new receptacle and the cost to have an electrician install the receptacle.

Item # 7: Cleaning (\$150.00) – The landlord's representative testified that the entire unit needed deep cleaning. The landlord submitted photographs of the unit to support the claim (LL#14) and the landlord is seeking labor costs at \$20.00 per hour for 7.5 hours.

Item # 8: Replace light fixture in bedroom #2 (\$75.00) – The landlord's representative testified that there was a crack in the globe of the light fixture in bedroom #2 and she stated that the light fixture needed to be replaced. The landlord submitted a photograph of the light fixture to support the claim (LL# 15). The landlord is seeking \$75.00 to cover the cost to replace the light fixture.

Item # 9: Utilities (\$100.00) – This item has been dealt with in Issue # 3 as listed above.

Item # 10: Replace trim moulding (\$75.00) – The landlord's representative testified that the tenants removed the trim moulding from bedroom # 2 and reapplied it to bedroom # 1. The landlord is seeking \$75.00 for materials and labor to replace the moulding.

Item # 11: Return of Microwave – (\$150.00) - The landlord's representative testified that the tenants took the microwave with them when they vacated, and the landlord is seeking \$150.00 to replace the microwave.

Analysis

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

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

23. The respondents were not present to dispute any claims. The items are analyzed based on the exhibits entered into evidence and the testimony of the applicant's representative. Each item is analyzed as follows:

Item # 1: Replace gyproc to stairwell and paint (\$100.00) – The landlord's representative testified that there was damage to the wall in the stairwell going to a room in the basement which needed to be plastered and painted. I asked the landlord's representative if she had receipts for the plaster and paint and if she had an invoice to

show how long it took to complete the work and she responded that she did not. Based on the photograph entered into evidence, I accept that the wall was damaged, and it needed to be repaired. As the tenants were not present to dispute that they caused the damage, I accept the testimony of the landlord's representative and based on the cost of plaster and paint and the average hourly wage to hire a painter, I accept that it is not unreasonable to expect that it would cost \$100.00 to complete the work.

Item # 2: Plaster and paint living room (\$200.00) – The landlord's representative testified that there was damage to the wall in the living room consisting of multiple holes which needed to be plastered and painted. I asked the landlord's representative if she had receipts for the plaster and paint and if she had an invoice to show how long it took to complete the work and she responded that she did not. I also asked when was the last time that the walls were painted and she responded that they were freshly painted prior to the tenancy in 2023. Based on the photograph entered into evidence, I accept that the wall was damaged with multiple holes and needed to be repaired. As the tenants were not present to dispute that they caused the damage, I accept the testimony of the landlord's representative and based on the cost of plaster and paint and the average hourly wage to hire a contractor, I accept that it is not unreasonable to expect that it would cost \$200.00 to complete the work.

Item # 3: Blinds damaged in living room (\$250.00) - The landlord's representative testified that the blind in the living room window was damaged and needed to be replaced. I asked the landlord's representative if she had a receipt for the blind and she responded that she did not and she stated that the landlord was being very conservative as blinds for that size of a window are over \$400.00. I accepted a post-hearing receipt from the landlord showing the cost of the new blind to be \$180 plus tax. I also asked the landlord's representative the age of the blind and she responded that she did not know as the landlord purchased the home in 2023. I asked the landlord's representative the age of the house and she responded that the house is approximately 12 years old. Section 9-5 of the *Residential Tenancies Policy*: Depreciation and life expectancy of property states that wooden faux blinds can last up to 15 years and assuming that the blinds are the same age as the house, I find that there is approximately 3 years of the blinds life cycle remaining. Based on this information, I find that the tenants are responsible for 20% of the cost to replace the blind in the amount of \$41.40.

Item # 4: Plaster & paint walls in bedroom #2 (\$250.00) – The landlord's representative testified that there was damage to the wall in bedroom # 2 and the room needed to be plastered and painted. Based on the exhibit entered into evidence, I accept that there is minor damage to one small area of the wall consisting of 2 small holes and as the cost of plaster and paint has already been awarded, I find that a nominal amount of \$50.00 is sufficient to cover the cost of labor to plaster the 2 small holes and touch it up with fresh paint. I find that the tenants are responsible for the cost to repair the bedroom wall in the amount of \$50.00.

Item # 5: Replace siding to corner (\$200.00) – The landlord's representative testified that the exterior vinyl corner post of the house was cracked and needed to be replaced. As the tenants were not present to dispute that they caused the damage, I accept the testimony of the landlord's representative and based on the cost of exterior vinyl posts (average of \$43.00 each including tax) and the average hourly wage to hire a contractor (\$33.00 per hour), I accept that it would be reasonable to expect that 2 hours of labor would be sufficient to complete the work. I find that the tenants are responsible for the cost to replace the corner post in the amount of \$109.00. (Note: average costs of vinyl posts was taken from www.homedepot.com and the average hourly wage of a contractor was taken from www.ziprecruiter.com).

Item # 6: Replace outlet in bedroom # 3 (\$100.00) – The landlord's representative testified that there was damage to the wall outlet in bedroom # 3 consisting of burn marks and black residue. The landlord's representative stated that the receptacle and the plate needed to be replaced. As the tenants were not present to dispute that they caused the damage, I accept the testimony of the landlord's representative and based on the cost of a receptacle and plate (average of \$35.00 including tax) and the average hourly wage to hire an electrician (\$41.00 per hour), I accept that it would be reasonable to expect that 2 hours of labor would be sufficient to complete the work. I find that the tenants are responsible for the cost to replace the outlet in the amount of \$76.00. (*Note: average costs of receptacles was taken from www.homedepot.com and the average hourly wage of an electrician was taken from www.ziprecruiter.com*).

Item # 7: Cleaning (\$150.00) – The landlord's representative testified that the entire unit needed deep cleaning. Based on the photographs entered into evidence, I accept that the unit needed some cleaning, however in accordance with Section 9-3 of the *Policy* as stated above, I find that the landlord was unable to show that the unit needed 7.5 hours of cleaning. The photographs show some dirt marks on the interior door, some dirt behind the stove and fridge areas and on the sides of the appliances, there is a small amount of dirt left in the fridge drawers and minimal dirt shown in the bathroom area. I find that 7.5 hours of work is extreme and based on the photographs, I will award 4 hours of work at \$20.00 per hour. I find that the tenants are responsible for the cost of cleaning the unit in the amount of \$80.00.

Item # 8: Replace light fixture in bedroom #2 (\$75.00) – The landlord's representative testified that there was damage to the globe of the light fixture in bedroom #2 and she stated that the light fixture needed to be replaced. As the tenants were not present to dispute that they caused the damage, I accept the testimony of the landlord's representative and based on the average cost of a similar light fixture (average of \$79.00 including tax), I accept that it is reasonable to seek \$75.00 for the cost of a new light fixture. I find that the tenants are responsible for the cost to replace the light fixture in the amount of \$75.00. (*Note: average costs of light fixture was taken from www.homedepot.com*).

Item # 9: Utilities (\$100.00) – This item has been dealt with in Issue # 3 as listed above.

Item # 10: Replace trim moulding (\$75.00) – The landlord's representative testified that the tenants removed the trim moulding from bedroom # 2 and reapplied it to bedroom # 1. As the tenants were not present to dispute that they replaced the moulding, I accept the testimony of the landlord's representative and based on the average cost of door casing (\$30.00 including tax) and the average wage of a contractor (\$33.00 per hour), I accept that it would be reasonable to expect that 1 hour of labor would be sufficient to complete the work. I find that the tenants are responsible for the cost to replace the trim moulding in the amount of \$63.00. (*Note: average costs of trim moulding was taken from www.homedepot.com and the average hourly wage of a contractor was taken from www.ziprecruiter.com*).

Item # 11: Return of Microwave – (\$150.00) - The landlord's representative testified that the tenants took the microwave with them when they vacated, and the landlord is seeking \$150.00 to replace the microwave. As the tenants were not present to dispute the claim, I accept the testimony of the landlord's representative and based on the average cost of a microwave (\$170.00 including taxes), I find that it is reasonable for the landlord to seek \$150.00 to replace the microwave. And as such, I find that the tenants are responsible for the cost to replace the microwave in the amount of \$150.00.

Decision

24. The landlord's claim for *compensation for damages* succeeds in the amount of \$944.40.

Issue # 4: Hearing expenses \$20.00

25. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and submitted a copy of the receipt (LL#16). Section 12-1 of the *Residential Tenancies Policy* states that in general, claimable costs may include the filing fee. As the landlord's claim has been successful, the tenants shall pay the hearing expenses.

Decision

26. The landlord's claim for *hearing expenses* succeeds in the amount of \$20.00.

Issue # 6: Security deposit applied against monies owed \$1000.00

Analysis

27. Section 14 of the *Residential Tenancies Act, 2018* states:

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).*

28. As the landlord's claim for losses has been successful as per paragraphs 15, 19, 24 and 26, I find that the landlord's claim to have the security deposit applied against monies owed succeeds. 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

29. The landlord's claim to have the security deposit applied against monies owed succeeds.

Summary of Decision

30. The tenants did not provide a valid termination notice to the landlord.

31. The tenants shall pay the landlord \$615.11 as follows:

Rent paid	\$630.00
Utilities paid	26.58
Compensation for damages	944.40
Hearing expenses	20.00
Less: security deposit & interest.....	1005.87
Total	\$615.11

August 30, 2024

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office