

Residential Tenancies Tribunal

Application 2024-0671-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:15 a.m. on 26-August-2024.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.

Preliminary Matters

4. The landlord submitted an affidavit with her application stating that she had served the tenant with the notice of hearing electronically by email to; [REDACTED] on 12-August- 2024 (LL#1). The tenant denied receiving the document as she stated that she was unable to access her computer. In accordance with Section 35 (1)(f) of the *Residential Tenancies Act*: service of documents, I find that the tenant was served properly, and the hearing proceeded.
5. There was a written month-to-month rental agreement which commenced on 1-November-2021. The tenant vacated the unit on 1-July-2024. Rent was \$800.00 per month, due on the 1st of each month. A security deposit of \$400.00 was paid on 26-September-2021 and is in the landlord’s possession.

Issues before the Tribunal

6. The landlord is seeking:
 - a. Compensation paid for damages \$1771.09
 - b. Security deposit applied against monies owed \$400.00

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*.

8. Also, relevant and considered in this decision is the following section 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 damages to rented premises and Section 9-5: Life expectancy of property.

Issue # 1: Compensation for Damages \$1771.09

Relevant Submission

9. The landlord testified that there were damages / losses to the rental unit and submitted a copy of the damages ledger to support the claim (LL#2). See breakdown of damages ledger below:

Item #	Description of Damages	Compensation Claimed
1.	bathroom laminate, plywood, baseboards and labo	\$321.09
2.	4 trips to Robin Hood Bay Dump	\$200.00
3.	Proffessional cleaner for bathroom	\$100.00
4.	cleaning supplies	\$120.00
5.	hall floor- treatment but ultimately new flooring,la	\$230.00
6.	cleaning entire apartment and painting ongoing 40	\$800.00

Landlord's Position

10. The landlord testified that there were damages / losses to the rental unit as a result of negligence on the part of the tenant and she is seeking compensation in the amount of \$1771.09. The landlord's position on each item is as follows:

Item # 1: Bathroom and hallway flooring, plywood, baseboards and labor (\$551.09)

The landlord testified that the laminate flooring and the plywood subfloor in the bathroom and hallway area from the bathroom were damaged due to animal urine and had to be replaced. The landlord also testified that some baseboards in the unit needed to be replaced due to damage. The landlord stated that there was a strong urine odor in the above noted areas, and she stated that a professional cleaner used a urine foam product which bubbles up when interacted with urine to show how much of the area was affected. The landlord is seeking \$304.39 for materials, \$90.70 for trips to the hardwood stores and \$156.00 for 10 hours of labor at \$15.60 per hour to complete the work. The landlord submitted photographs of both the cushion flooring in the bathroom, the subfloor, the laminate flooring in the hallway and the baseboards to support the claim (LL#3). The landlord also submitted copies of receipts to show the cost of materials to support the claim (LL#4).

Item # 2: Trips to Robin Hood Dump (\$200.00) – The landlord testified that it took 4 trips to the landfill to dispose of all the garbage left outside the unit, which included the removal of a cabinet and a box full of kitty litter waste, 2 garbage bags and some cigarette butts. The flooring and baseboards that had to be removed from the unit were also included in the items that needed to be disposed of and the food left in the refrigerator. The landlord testified that she availed of garbage removal services from a person on *Marketplace* who removes garbage from residential premises and takes it to the landfill at a cost of \$50.00 per trip. The landlord testified that it took 4 trips for all the garbage including the flooring to be removed from the premises. The landlord submitted photographs of the garbage in the outside area and in the refrigerator to support the claim (LL#5).

Item # 3: Cleaning the bathroom (\$100.00) – The landlord testified that she hired a professional cleaner to clean the bathroom as she did not know how to deal with the urine problem. The landlord stated that it took 4 hours to complete the work and the cleaner charged \$25.00 per hour. The landlord submitted photographs of the bathroom to support the claim (LL#6).

Item # 4: Cleaning supplies (\$120.00) - The landlord testified that she had to purchase cleaning supplies and it cost \$120.00. The landlord stated that she purchased a 3-pack of spray nine from *Costco* and she did not retain the receipt. The landlord submitted a copy of a receipt from *Dollarama* showing the cost of the other cleaning supplies used (LL#7).

Item # 5: Cleaning & painting (\$800.00) - The landlord testified that the entire unit needed to be cleaned and she stated that it took 4 people 8 hours to complete the work at \$15.60 per hour for a total of \$500.00. The landlord submitted photographs of the cleanliness of the unit to support the claim (LL#8). The landlord also testified that the entire unit needed to be painted including doors which cost \$160.00 for materials and \$140.00 for labor. The landlord submitted photographs of the walls and doors (LL#9) and copies of receipts for painting supplies to support the claim (LL#10).

Tenant's Position

11. The tenant's position on each item is as follows:

Item # 1: Bathroom and hallway flooring, plywood, baseboards and labor (\$551.09)
The landlord testified that the laminate flooring and the plywood subfloor in the bathroom and hallway area from the bathroom were damaged due to animal urine and had to be replaced. The landlord also testified that some baseboards in the unit needed to be replaced due to animal urine. The landlord stated that there was a strong urine odor in the above noted areas, and she stated that a professional cleaner used a urine foam product which bubbles up when interacted with urine to show how much of the area was affected. The tenant disputed that her animals urinated in the bathroom and hallway area, and she stated that the damage occurred as a result of the bathroom sink continuously flooding.

Item # 2: Trips to Robin Hood Dump (\$200.00) – The landlord testified that it took 4 trips to the landfill to dispose of all the garbage left outside the unit, including the removal of a cabinet and a box full of kitty litter waste, 2 garbage bags and some cigarette butts. The flooring and baseboards that had to be removed were also included in the items that needed to be disposed of and food left in the refrigerator. The tenant disputed that she left any garbage outside the unit and testified that the cabinet belonged to the landlord.

Item # 3: Cleaning the bathroom (\$100.00) – The landlord testified that she hired a professional cleaner to clean the bathroom as she did not know how to deal with the urine problem. The tenant did not dispute that the bathroom needed cleaning, however she disputed that it would take 4 hours to complete the work as the room was only 2 feet x 5 feet.

Item # 4: Cleaning supplies (\$120.00) - The landlord testified that she had to purchase cleaning supplies and it cost \$120.00. The tenant disputed that the cleaning supplies would cost \$120.00.

Item # 5: Cleaning & painting (\$800.00) - The landlord testified that the entire unit needed to be cleaned and she stated that it took 4 people 8 hours to complete the work at \$15.60 per hour for a total of \$500.00. The landlord also testified that the entire unit

needed to be painted including doors which cost \$160.00 for materials and \$140.00 for labor. The tenant did not dispute that the unit needed painting but stated that the paint was not fresh when she moved in and that the previous tenants had been there 2 years prior.

Analysis

12. 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)*

13. Based on the testimony of the applicant and the respondent and the exhibits entered into evidence, the items were analyzed as follows:

Item # 1: Bathroom and hallway flooring, plywood, baseboards and labor (\$551.09)

The landlord testified that the laminate flooring and the plywood subfloor in the bathroom and hallway area from the bathroom were damaged due to animal urine and had to be replaced. The landlord also testified that some baseboards in the unit needed to be replaced due to damage. The landlord stated that there was a strong urine odor in the above noted areas, and she stated that a professional cleaner used a urine foam product which bubbles up when interacted with urine to show how much of the area was affected. The landlord is seeking \$304.39 for materials, \$90.70 for trips to the hardwood stores and \$156.00 for 10 hours of labor at \$15.60 per hour to complete the work. The tenant disputed that her animals urinated in the bathroom and hallway area, and she stated that the damage occurred as a result of the bathroom sink continuously flooding. I asked the landlord if there was a problem with the bathroom sink flooding and she responded that there was not. I also asked the landlord the age of the flooring, and she responded that the cushion flooring was 11 years old, and the laminate was 4 years old. I asked the tenant how many animals she had in the unit and if they had ever urinated inside and she responded that she had 2 dogs and 1 cat and she stated that they did urinate inside on a rubber-back mat. I accept the landlord's testimony that the damage was not caused by a leaky sink in the bathroom, and I also accept that urine odor is easily identifiable and as the landlord was able to show that the damage existed as per Section 9-3 of the *Policy* as stated above, I find that the tenant was negligent in causing the damage. Based on the receipts submitted into evidence, the landlord paid \$86.41 for vinyl plank, \$45.95 for plywood, \$18.87 for baseboards and \$11.34 for other materials. The landlord stated that the replacement cost for the cushion floor was \$93.60. The costs claimed for trips to the hardwood stores will not be covered as those costs fall under "*the cost of doing business*."

In accordance with Section 9-5 of the *Residential Tenancies Policy*: Depreciation and life expectancy of property, the flooring has a 25-year lifespan and as there is approximately 84% of the laminate flooring's life cycle remaining, I find that the tenant is responsible for the cost of the laminate flooring less depreciation in the amount of \$72.58. As the bathroom cushion flooring was 11 years old, there is approximately 56% of its life cycle remaining, I find that the tenant is responsible for the cost of the cushion flooring less depreciation in the amount of \$52.42. I find that the tenant is responsible for the full cost of the plywood subfloor in the amount of \$45.95, the cost of the baseboards in the amount of \$18.87, and other materials in the amount of \$11.34. I also find that it is reasonable to expect that it would cost \$156.00 for 10 hours of labor to remove the flooring and subfloor, replace it with new material and replace the baseboards. For those reasons, I find that the tenant is responsible for the cost of materials and labor to replace the flooring and baseboards in the amount of \$357.16.

Item # 2: Trips to Robin Hood Dump (\$200.00) – The landlord testified that it took 4 trips to the landfill to dispose of all the garbage left outside the unit, including the removal of a cabinet and a box full of kitty litter waste, 2 garbage bags and some cigarette butts. The flooring and baseboards that had to be removed were also included in the items that needed to be disposed of and some food left in the refrigerator. The tenant disputed that she left any garbage outside the unit and testified that the cabinet belonged to the landlord. I accept the tenant's testimony that the cabinet belonged to the landlord and should not be included in the cost. Based on the photographs entered into evidence, I accept that there was some garbage left outside the unit, and some food in the refrigerator however the landlord was unable to show that there were 4 truckloads. Without an official invoice to show the cost, an amount will be determined based on the photographs entered into evidence. With the flooring and food included, I accept that the garbage outside the unit could have been removed from the premises in one trip to the landfill. I find that the tenant is responsible for the cost of 1 garbage run to the landfill in the amount of \$50.00.

Item # 3: Cleaning the bathroom (\$100.00) – The landlord testified that she hired a professional cleaner to clean the bathroom as she did not want to deal with the urine problem. The tenant did not dispute that the bathroom needed cleaning, however she disputed that it would take 4 hours to complete the work as the room was only 2 feet x 5 feet. Based on the photographs entered into evidence, I accept that the bathroom needed 4 hours of cleaning, and I also accept that \$25.00 per hour is a reasonable rate of pay. For those reasons, I find that the tenant is responsible for the cost to clean the bathroom in the amount of \$100.00.

Item # 4: Cleaning supplies (\$120.00) - The landlord testified that she had to purchase cleaning supplies and it cost \$120.00. The landlord stated that she purchased a 3-pack of spray nine from *Costco* and she did not retain the receipt. The tenant disputed that the cleaning supplies would cost \$120.00. I asked the landlord what percentage of the products she used to clean the unit and she responded that she used approximately $\frac{3}{4}$ of the products. Based on the photographs entered into evidence, I accept the landlord's testimony that she needed to use a lot of spray nine and given that a 4 L bottle costs approximately \$26.00, I accept that the tenant shall be responsible for $\frac{3}{4}$ of that cost. As for the other cleaning supplies as listed on the receipt from *Dollarama* (\$21.52), I also accept that the tenant shall be responsible for $\frac{3}{4}$ of the cost. I find that the tenant is responsible for the cost of cleaning supplies in the amount of \$35.63.

Item # 5: Cleaning & painting (\$800.00) - The landlord testified that the entire unit needed to be cleaned and she stated that it took 4 people 8 hours to complete the work at \$15.60 per hour for a total of \$500.00. The landlord also testified that the entire unit needed to be painted including doors which cost \$160.00 for materials and \$140.00 for labor. The tenant did not dispute that the unit needed cleaning but stated that she was dealing with a family emergency at the time. Nor did the tenant dispute that the unit needed painting but stated that the paint was not fresh when she moved into the unit in 2021. I asked the landlord when was the last time the unit was painted and she responded that the unit was last painted in 2019. Based on the photographs entered into evidence, I accept that the entire unit needed to be cleaned and the walls and doors needed to be washed down prior to painting, and I accept that it would take 4 people 8 hours to clean and 9 hours to paint.

In accordance with Section 9-5 of the *Residential Tenancies Policy*: Depreciation and life expectancy of property, interior paint has a 15-year lifespan and as there is approximately 67% of the paints life cycle remaining, and as the landlord could show the cost of materials, I find that the tenant is responsible for 67% of the total cost to paint the unit in the amount of \$201.00. In total, I find that the tenant is responsible for the cost to both clean the unit and have it painted in the amount of \$701.00.

Decision

14. The landlord's claim for damages succeeds in the amount of \$1243.79.

Issue # 2: Security deposit applied against monies owed \$400.00.

Analysis

15. 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).*

16. The landlord's claim for losses has been successful as per paragraph 14 and as such, the security deposit shall be applied against monies owed. Pursuant to the *Residential Tenancies Act, 2018* landlords must pay interest on a security deposit to tenants for the entire period that the landlords have had the security deposit. The interest is calculated as simple interest and is not compounded. The annual interest for 2019 -2023 was 0% and is currently 1% for 2024.

Decision

17. The landlord's claim for security deposit to be applied against monies owed succeeds.

Summary of Decision

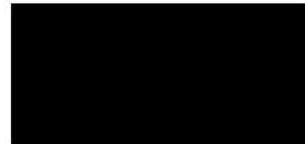
18. The tenant shall pay the landlord \$841.17 as follows:

Compensation for damages \$1243.79
Less security deposit & interest..... 402.62

Total \$841.17

September 19, 2024

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office