

Residential Tenancies Tribunal

Decision 19-0455-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:20 pm on 13 August 2019 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord", participated in the hearing. The tenant, [REDACTED], hereinafter referred to as the "tenant", participated by telephone.

Issues before the Tribunal

3. The landlord is seeking the following:
 - An order for compensation for damages in the amount of \$616.95;
 - An order for a payment of rent in the amount of \$1650.00; and
 - Authorization to retain the security deposit of \$500.00.

Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this decision is section 18 of the Residential Tenancies Act, 2018 and policy 9-3: Claims for Damage to Rental Premises.

Issue 1: Rent - \$1650.00

Relevant Submissions

The Landlord's Position

6. The landlord stated that he had entered into a monthly rental agreement with the tenant on 15 January 2018 and a copy of that executed agreement was submitted with his application (█ #1). The agreed rent was set at \$1100.00 per month and it is acknowledged in this agreement that the tenant had paid a security deposit of \$500.00.
7. The landlord stated that on 01 June 2019 he received notification that the tenants had moved out of the rental unit. He testified that he had received no prior notification that the tenant had intended to terminate her rental agreement.
8. The landlord stated that the tenant had only paid him half of the rent for May 2019 and he stated that no rent had been paid for June 2019. He is seeking a payment of \$550.00 for May 2019 and \$1100.00 for June 2019.
9. The landlord testified that the rental unit is currently not re-rented and he still has to carry out repairs as a result of damages caused by the tenant.

The Tenant's Position

10. The tenant acknowledged that she had vacated the unit on 01 June 2019 and that she had not given the landlord any notice that she was moving.
11. The tenant stated that she was having issues with the water at the unit and there was a time when she was without running water for a period of 5 days. The landlord had remarked to her during that period that if she was not satisfied with the apartment, she could look for different accommodations. The tenant stated that she took this to mean that she did not need to give notice that she was moving.

Analysis

12. Section 18 of the *Residential Tenancies Act, 2018* requires that a tenant give a landlord at least 1 month's notice that she is terminating her agreement. Presumably, part of the reason for that notice period is to give the landlord adequate time to find new tenants.
13. It is not disputed that the tenant vacated the rental unit on 01 June 2019 without giving the landlord any notice that she was moving. Without such notice, I find that it would have been virtually impossible for him to find new tenants for that month.

14. As such, I find that the landlord is entitled to rent for May and June 2019 in the amount of \$1650.00 (\$550.00 for May and \$1100.00 for June 2019).

Decision

15. The landlord's claim for a payment of rent succeeds in the amount of \$1650.00.

Issue 2: Compensation for Damages - \$616.95

Relevant Submissions

The Landlord's Position

16. The landlord stated that after he regained possession of the premises, he discovered that there were some damages caused to the unit by the tenant and he submitted the following breakdown of the costs to carry out repairs (█ #3):

• 2 holes in walls	\$80.00
• Outside door.....	\$353.41
• 1 floor tile.....	\$10.00
• 1 transition strip.....	\$5.00
• 2 new keys	\$5.00
• 2 new locks.....	\$46.58
Total.....	\$499.99

17. The landlord stated that there were 2 holes found in the walls of the rental unit after the tenant moved out—one in the kitchen and one in the master bedroom. The landlord is seeking \$80.00 for the costs of repairing that damage. No photographs were submitted at the hearing showing that damage and no receipts or quotes were submitted to establish the costs the landlord is seeking here.

18. Regarding the exterior door, the landlord stated that there was a split in the door running the full length of it. He also complained that the door knob and deadbolt were damaged as well and needed to be replaced. No photographs were submitted showing this damage. The landlord stated that no repairs have yet been carried out and no receipt or quotes were submitted at the hearing to substantiate the costs the landlord is seeking here.

19. The landlord also complained that there is a floor tile that is broken in half and missing. He also stated that a transition strip is split. No photographs were submitted at the hearing and no quotes or receipts establishing the costs he is seeking here.

The Tenant's Position

20. The tenant acknowledged that there were 2 holes in the walls at the rental unit. She stated that this damage was caused when she was moving out. She said the damage was minor and she did not think it would cost \$80.00 to have those holes repaired.
21. The tenant stated that the exterior door was working fine during her tenancy and she had no recollection of any damage to that door when she vacated.
22. The tenant stated that she was unaware of any damage to floor tile. She also stated that she did not know that the transition strip was split, though she did admit that she had it removed while she was moving and claimed that it was placed in the living room.

Analysis

23. Under Section 10.1(2) of the *Residential Tenancies Act, 2018* the tenant is responsible to keep the premises clean and to repair any damage caused by a willful or negligent act.

2. *Obligation of the Tenant* - The tenant shall keep the residential premises clean, and shall repair damage caused by a wilful or negligent act of the tenant or of a person whom the tenant permits on the residential premises.

Accordingly, in any damage claim, 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)

In accordance with Residential Tenancies policy 9-3, the adjudicator must consider depreciation when determining the value of damaged property. Life expectancy of property is covered in Residential tenancies policy 9-6.

Under Section 47 of the *Act*, the director has the authority to require the tenant to compensate the landlord for loss suffered or expense incurred as a result of a contravention or breach of the *Act* or the rental agreement.

Order of director

47. (1) After hearing an application the director may make an order

(a) *determining the rights and obligations of a landlord and tenant;*

- (b) *directing the payment or repayment of money from a landlord to a tenant or from a tenant to a landlord;*
 - (c) *requiring a landlord or tenant who has contravened an obligation of a rental agreement to comply with or perform the obligation;*
 - (d) *requiring a landlord to compensate a tenant or a tenant to compensate a landlord for loss suffered or expense incurred as a result of a contravention of this Act or the rental agreement*
- 24. The tenant denied that she was responsible for some of the damages identified by the landlord and I find that in those cases, the landlord has just not presented enough evidence (e.g., photographs or videos, etc.) to establish that these items were damaged during this tenancy.
- 25. With the remaining items, I also find that the lack of photographs or videos has hampered my ability to determine to extent of the damage and with no receipts or quotes, I have no basis on which to base a finding of appropriate compensation.
- 26. For those reasons, the landlord's claim does not succeed.

Decision

- 27. The landlord's claim for compensation for damages does not succeed.

Issue 3: Security Deposit

- 28. The tenant paid a security deposit of \$500.00 on 10 January 2018 and receipt of that deposit is acknowledged in the submitted rental agreement. As the landlord's claim for rent has succeeded, he shall retain the security deposit as outlined in this decision and attached order.

Issue 4: Hearing Expenses

- 29. The landlord submitted a receipt showing that he had paid \$20.00 to file this application.
- 30. As the landlord's claim has been successful, the tenant shall pay this hearing expense.

Summary of Decision

31. The landlord is entitled to the following:

a) Rent.....	\$1650.00
b) Hearing Expenses	\$20.00
c) LESS: Security Deposit	
(\$500.00)	
Total Owing to Landlord	<u>\$1170.00</u>

23 December 2019

Date

[Redacted]
John R. Cook
Residential Tenancies Tribunal