

## **Residential Tenancies Tribunal**

[REDACTED] Decision 19-0923-05  
[REDACTED]

Denise O'Brien  
Adjudicator

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### **Introduction**

1. The hearing was called at 1:20 p.m. on January 31, 2020 at Residential Tenancies, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The originating applicant, [REDACTED], hereafter referred to as the tenant, participated in the hearing through a conference call. The applicant, [REDACTED] [REDACTED] was not present but he was represented by [REDACTED].
3. The countering applicant, [REDACTED], hereafter referred to as the landlord, participated in the hearing.

### **Issues before the Tribunal**

4. The tenants are seeking the following:
  - a. Refund of the security deposit in the amount of \$560.00.
5. The landlord is seeking the following:
  - a. Compensation for damages in the amount of \$342.24.

### **Legislation and Policy**

6. The jurisdiction of the Director of Residential Tenancies is outlined in the Residential Tenancies Act, 2018 (the Act), Section 47.
7. Also relevant and considered in this case are Sections 10 and 14 of the Act.

## **Issue 1: Compensation for damages - \$342.24**

### Landlord Position

8. The tenants moved into the unit in early January 2019 for a six month term with rent set at \$750.00 per month due on the 1<sup>st</sup> of each month. The tenants vacated on November 1, 2019. The landlord testified that the carpet in the master bedroom was installed the end of October 2018. She allowed the tenants to have cats. When the tenancy ended the carpet was scratched and there were hitches in the carpet. The carpet has to be replaced. The carpet is a regular grade carpet. She received a quote in the amount of \$342.24 from The Carpet Factory Super Store on the replacement cost.
9. The landlord submitted the Order for the carpet from the Carpet Factory Super Store in October 2018 (LL #1), photographs of the carpet (LL #2) and a quote from the Carpet Factory Super Store dated January 2, 2020 on the replacement cost (LL #3).

### Tenant Position

10. The tenant testified that the carpet was new when they moved into the unit. When they moved out the carpet looked fine. It was the natural state of wear for a year from everyday use.

### **Analysis**

11. I have reviewed the testimony and the evidence of the landlord and the tenant. I have determined that there is one issue that needs to be addressed; are the tenants responsible for the replacement of the carpet. I find that the carpet was new when the tenancy started. Based on the photographs presented there are a number of hitches in the carpet when the tenancy ended. The carpet would need to be replaced. Carpet is a depreciable item with a life expectancy of 6 years. As the carpet is one year old, the claim for replacement of the carpet succeeds in the amount of \$285.20 ( $\$342.24 \div 6 \text{ years} = \$57.04 \times 5 \text{ years remaining} = \$285.20$ ).

### **Decision**

12. The landlord's claim for compensation for damages succeeds as per the following:
  - a) Replacement of the carpet.....\$285.20

## **Issue 2: Application for Security Deposit**

13. Under the authority of Section 47.(j) the director may authorize a landlord to offset money a tenant owes to the landlord against money the landlord owes to the tenant. Further under subsection (m), the director has the authority to determine the disposition of the security deposit.

### **Tenant Position**

14. The tenant testified that they paid a \$560.00 security deposit on January 1, 2019.

### **Landlord Position**

15. The landlord acknowledges a \$560.00 security deposit was paid in January 2019.

### **Analysis**

16. A \$560.00 security deposit was paid in January 2019. The landlord shall retain \$285.20 from the security deposit as the landlord was successful in the claim for compensation for damages. The interest rate on security deposits for 2019 is 0%.

### **Decision**

17. The security deposit in the amount of \$560.00 shall be disposed of as outlined in this decision and attached order.

### **Summary of Decision**

18. The tenants are entitled to the following:

a) Refund of the security deposit.....	\$560.00
b) <b>Less compensation for damages .....</b>	<b><u>(285.20)</u></b>
c) <b>Total owing to the tenants.....</b>	<b><u>\$274.80</u></b>

April 29, 2020

Date

[Redacted]

Residential Tenancies Section