

## Residential Tenancies Tribunal

[REDACTED] Decision 19-0068-01

Michael Greene  
Adjudicator

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### Introduction

1. The hearing was called at 9:45 am on 06 January 2020 at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador via Bell Teleconferencing System.
2. The originating applicant, [REDACTED], hereafter referred to as the tenant, participated in the hearing (*Affirmed*)
3. The countering applicant, [REDACTED], hereafter referred to as the landlord1, participated in the hearing – *Affirmed*.
4. The countering applicant, [REDACTED], hereafter referred to as the landlord2, participated in the hearing – *Affirmed*.
5. The details of the claim were presented as a written monthly rental agreement with rent set at \$950.00 per month (utilities excluded) and due on the 1<sup>st</sup> of each month. It was stated that a security deposit in the amount of \$600.00 was collected on the tenancy on or about 01 August 2018. The tenant issued an emailed termination notice and vacated on 31 August 2019.
6. In a proceeding under the *Residential Tenancies Act, 2018*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

## **Preliminary Matters**

7. There were no hearing expenses claimed by either party at the hearing.

## **Issues before the Tribunal**

8. The **tenant** is seeking the following:

a) Refund of Security Deposit **\$600.00**

9. The **landlords** are seeking the following:

b) Compensation for Damages **\$600.00**  
c) Application of Security Deposit

## **Legislation and Policy**

10. The jurisdiction of the Director of Residential Tenancies is outlined in the *Residential Tenancies Act, 2018 (the Act)*, Section 47.
11. Also relevant and considered in this case are Sections 42 of *the Act*, Policy 9-3: *Claims for Damages to Rented Premises*, Policy 9-5: *Life Expectancy of Property* and Policy 12-1: *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*.

### **Issue 1: Compensation for Damages - \$600.00**

#### **Relevant Submissions**

##### **Landlord Position**

12. The landlords are claiming for several areas of damages as itemized in the claim breakdown (**Exhibit L #1**). The landlords outlined many areas but did not provide any cost breakdown along with the itemized list. The landlords are claiming \$600.00 for the cleaning of the property after the tenant vacated.
13. The landlords submitted into evidence photos and videos of the property (**Exhibit L #2**) to demonstrate the damages claimed. These photos and videos were taken on 01 & 02 September 2019. The landlords did not provide a receipt for the cleaning claimed but a text message identified as (**Exhibit T #2**) was submitted from "Bev" giving an estimate of \$500.00 to clean an unknown location.

14. The landlords testified that the tenant was smoking “shisha” in the property. There were no photos or videos of the property prior to the tenant taking possession of the property. There was no rental condition report completed on the property.

#### Tenant Position

15. The tenant testified that it was primarily himself living in the unit. He denies the claim of the landlords that he smoked in the unit. The tenant testified that the previous tenants moved from the unit on 31 July 2018 and he moved into the unit on 01 August 2018 and the property was damaged when he got there. He claims that the damage existed from the previous tenants.

#### **Analysis**

16. The relationship between the landlords and tenant was evident at the scheduled hearing. It is clear that the relationship started out as a cordial and friendly landlord/tenant relationship and appears to have gone off the rails at some point later in the agreement. The burden of the claim for damages is that of the applicants for that particular claim. In this matter, the landlords are claiming that the tenant damaged the property to the amount of \$600.00.
17. The landlords are required to show on the balance of probabilities that:
  - a. The damages exists;
  - b. The tenant is liable for the damage and;
  - c. Provide a costed valuation for the repair or replacement of the damage.
18. The landlords have shown an existence of damaged items in the unit. However, the landlords have failed to establish any sort of baseline condition of the property prior to the tenancy beginning. There were no prior photos or videos or even a rental condition report presented. As such, the landlords have failed to support their claim for damages and the claim fails.

#### **Decision**

19. The landlords’ claim for damages fails.

#### **Issue 2: Refund of Security Deposit**

#### Tenant Position

20. The tenant submitted a copy of the receipt for the security deposit (**Exhibit T # 1**) and is seeking to have the security deposit in the amount of \$600.00 refunded by way of an order from this application.

### Landlord Position

21. The landlords testified that a security deposit in the amount of \$600.00 was collected on the tenancy on or about 01 August 2018. The landlords are seeking that this deposit be applied against any order derived from this application and claim.

### **Analysis**

22. I have reviewed the testimony and evidence of the landlords and tenant in this matter. The tenant has provided a copy of the security deposit receipt (**Exhibit T # 1**) which indicates payment was made on or about 01 August 2018. Additionally, the landlords have acknowledged the receipt of the deposit. Interest on security deposit for the year 2018 and 2019 is set at 0% and therefore the total security deposit to be considered is \$600.00.
23. The landlords filed a claim seeking damages in the amount of the damage deposit being held, however, the landlords' claim for damages failed. As such, I find that the landlords shall refund to the tenant the security deposit as determined below. The tenant's claim for a refund of security deposit succeeds.

### **Decision**

24. The tenant's claim for refund of security deposit succeeds:

### **Summary of Decision**

25. The tenant is entitled to the following:
  - a) Refund of Security Deposit ..... \$600.00
  - c) **Total owing to Tenant** ..... \$600.00

03 April 2020

**Date**

Michael Greene  
Residential Tenancies Tribunal