

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0197-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:08 AM on 08 July 2021 via teleconference.
2. The applicant, [REDACTED] hereinafter referred to as “the landlord”, participated in the hearing. The respondent, [REDACTED] hereinafter referred to as “the tenant”, also participated.

Issues before the Tribunal

3. The landlord is seeking an order for a payment of \$713.35 in compensation for damages.

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 policy 9-3: Claims for Damage to Rental Premises.

Issue 1: Compensation for Damages - \$713.35

Relevant Submissions

The Landlord's Position

6. The landlord stated that she had entered into a 1-year, fixed-term rental agreement with the tenant, commencing 01 November 2020, and a copy of the executed leases was submitted with her application ([REDACTED] #1). The agreed rent

was set at \$450.00 per month and it is acknowledged in the lease that the tenant had paid a security deposit of \$337.50.

7. With the permission of the landlord, the tenant's lease was assigned to someone else and the tenant moved out of the unit on 29 March 2021. The landlord and tenant agreed at that time that the landlord would keep the damage deposit for the costs of repairing a wall and for repairing furniture.
8. But the landlord stated that the tenant had caused further damages to the rental unit during his tenancy and she submitted the following breakdown of the costs to carry out those additional repairs (redacted #2):

- Power bill \$22.87
- Repair floor and wall \$600.00
- 1 gallon of paint..... \$45.99
- Box of laminate flooring..... \$45.24

- Total..... \$714.10

9. With her application, the landlord submitted a copy of a bill from Newfoundland Power showing that she was charged \$135.45 for the period from 17 March to 16 April 2021. The landlord calculates that the tenant's share of that amount, for the period from 17 March 2021 to the date he moved out, comes to \$22.87.
10. With respect to the floor, the landlord stated that she noticed that damage after the tenant moved out. She claimed that there was a "patch" on the floor in his room she claimed that about 15 laminate boards are "lifting". The landlord claimed that these floors were not in this condition when the tenancy began and she did not know what the tenant had done to cause that damage. No photographs were submitted with her application.
11. With her application the landlord submitted a screenshot from Kent showing that it would cost \$45.24 to purchase a box of laminate flooring as well as a quote from a contractor which states that she would be charged \$150.00 to have the damaged laminate boards replaced. That work has not yet been carried out, but the landlord stated that she has purchased the flooring. No receipt was submitted with her application. The landlord testified that these floors were 8 years old.
12. The landlord also stated that the tenant had put a strip of LED lights throughout his room and when he removed them, some chips of paint were torn off the ceiling and the walls. No photographs were submitted with her application. The landlord stated that she had repaired the walls herself and that it took her 6 hours to carry out that work. She also submitted a receipt showing that she had paid \$57.49 for 1 gallon of paint. The ceiling has not yet been repaired, but her submitted quote shows that she would be charged \$450.00 to have both the ceiling and walls repaired. The landlord stated that she did not know when that room was last painted.

The Tenant's Position

13. The tenant acknowledged that he owes \$22.87 for the electricity bill and he did not dispute that portion of the landlord's claim.
14. With respect to the floors, the tenant claimed that he was unaware of any damage and he denied that he had spilled anything in his room which would have caused the floorboards to warp. He stated that the area where the damage is located was covered by a carpet while he resided there and it was never removed by him.
15. The tenant stated that if damage was caused to the floors, it may have happened when the contractors the landlord had hired were in his room. He stated that they were hired to repair his ceiling and he was away from the property for 3 days. He testified that when he had returned, his room was "trashed", his bed had been moved and a bottle of holy water he had in his room had been spilled over his floor.
16. The tenant acknowledged that some paint chips came away when he removed the LED lights and he stated that he was willing to pay for a half of a gallon of paint. With respect to the ceiling, though, the tenant stated that it had been repaired and plastered by contractors during his tenancy, but he claimed that they have not yet painted it, and this is work that the landlord was going to have to do anyhow.

Analysis

17. 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 willful 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

18. The landlord's claim for the costs of utilities succeeds, as the tenant did not contest that portion of her claim.
19. With respect to the floor, I was not persuaded that the landlord is entitled to an award. No photographs were submitted with the landlord's application showing that damage and there was no report of an incoming or outgoing inspection establishing that this damage was caused during this tenancy.
20. With respect to the painting, as the tenant admits that some damage was caused to these walls, I find that the landlord is entitled to the costs she incurred to purchase the paint \$57.49 as well as compensation for 6 hours of her personal labour. Policy with this Section is that an applicant may claim up \$20.25 per hour. With respect to the ceiling, I accept the tenant's claim that the landlord would need to have it painted anyhow, and I therefore make no award.

Decision

21. The landlord's claim for compensation for damages succeeds in the amount of \$201.86 (\$22.87 + 57.49 + \$121.50).

Issue 2: Hearing Expenses

22. The landlord paid a fee of \$20.00 to file this application. As her claim has been successful, the tenant shall pay that hearing expense.

Summary of Decision

23. The landlord is entitled to the following:

- a) Compensation for Damages..... \$201.86
- b) Hearing Expenses \$20.00

- c) Total Owing to Landlord \$221.86

03 December 2021

Date

