

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0258-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:17 AM on 07 September 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”, did not participate.

Issues before the Tribunal

3. The landlord is seeking an order for a payment of \$10,865.00 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 and rule 29 of the Rules of the Supreme Court, 1986.

Preliminary Matters

6. The tenant was not present or represented at the hearing and I was unable to reach him by telephone at the commencement of the hearing. This Tribunal’s policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date and, where the respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in

the respondent's absence so long as they have been properly served. The landlord submitted affidavits with his application stating that the tenant was personally served with the application on 09 August 2021. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in his absence.

7. The landlord amended his application and stated that he was now seeking \$4950.63 in compensation for damages and \$1200.00 for rent.

Issue 1: Compensation for Damages - \$4950.63

Relevant Submissions

8. The landlord testified that he had entered into a rental agreement with the tenant in the summer of 2020. The agreed rent was set at \$1200.00 per month and the landlord stated that the tenant had paid a security deposit of \$600.00. By mutual consent, the tenancy ended on 31 May 2021.
9. The landlord stated that after the tenant vacated, he discovered that there were significant damages caused to the unit and he submitted the following breakdown of the costs to carry out the required repairs (█ #1):

- Laminate flooring..... \$2622.00
- 4 piece dining set \$400.00
- Toilet set \$21.84
- Linens, towels, drapes \$320.80
- 2 queen mattresses..... \$1000.00
- Missing queen bed..... \$160.99
- Cleaning..... \$300.00

Total \$4825.63

Laminate Floor

10. The landlord stated that the tenant had kept 2 large dogs at the unit during his tenancy, and he testified that the tenant had allowed these dogs to urinate and defecate on the laminate floors during periods that he was away from the property. The landlord stated that these floors were installed in 2014 and were in good condition when the tenant moved in, and now the floors are curling in places and there was a bad smell on them after the landlord regained possession of the unit. The landlord has not yet replaced these floors, but instead treated them with a chemical cleaner to remove the smell. He stated that that cleaner cost him about \$300.00. With his application, the landlord submitted a quote for \$4370.00 the costs of replacing that flooring, and he calculated, factoring in depreciation, that he is entitled to an award of \$2622.00.

Dining Set

11. The landlord also pointed to his photographs showing that there was a scratch on the side of the dining room table and that there were a couple of gouges in the wooden chairs. The landlord stated that this damage was caused by the tenant's dogs and he pointed out that they had also been chewing on baseboards and trims. With his application, the landlord submitted a screenshot from [REDACTED] showing that a 7-piece dining set costs \$649.99. The landlord figured that a 4 piece set would cost \$460.00, and factoring in depreciation—it was only purchased in 2020—the landlord calculated that he is entitled to \$400.00 in compensation.

Toilet Seat

12. Another photograph shows that a toilet seat was broken and the landlord submitted a second screenshot from [REDACTED] showing that a new toilet seat would cost \$21.84.

Linens, Towels, Drapes

13. The landlord stated that when the tenancy began, he had provided the tenant with bedsheets for the 2 beds, 6 pillows and about 8 towels. He stated that most of the towels, sheets and pillows were missing when he regained possession of the unit, and those that had been left behind, were badly soiled and could not be cleaned. Regarding the towels, for example, the landlord stated that it appeared as if the tenant had been using those to clean the dogs' urine and feces off the floors. With his application, the landlord submitted the receipts for these items when they were purchased in 2020, showing that he had paid \$226.52 (\$196.97 + tax) for them.

Mattresses and bed

14. The landlord also complained that the 2 mattresses he had supplied the tenant with were soiled with dog urine and feces and he claimed that he also found blood stains on them. Because of their unsanitary state, the landlord disposed of those 2 mattresses. He submitted a receipt with his application showing that he had paid \$770.40 for those 2 mattresses in 2020. The landlord also complained that the queen bed that he had furnished the apartment with was also missing, and his submitted invoice shows that he had paid \$160.99 for that bed in 2020.

Cleaning

15. The landlord also stated that extensive, deep cleaning was required at the unit after the tenant vacated. He stated that the smell of dog urine in the property was very strong and it took a long time to rid the unit of that smell, and special cleaners were required. He also pointed to his photographs which show that the toilets were dirty, the refrigerator had not been cleaned out, the oven was dirty and there were also stains on the couch. The tenant also had left behind some

garbage and other possessions which had to be disposed of. The landlord is seeking \$300.00 in compensation for the costs of hiring cleaners. No receipt was submitted with his application.

Analysis

16. 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

17. I accept the landlord's claim that the tenant had allowed his dogs to urinate on the laminate floors at the rental unit, and I find that, in so doing, these floors suffered water damage and the tenant is therefore responsible for the costs of having these floors replaced. Laminate floors have an expected lifespan of 10 years, and given that they were installed in 2014, I find that the landlord is entitled to a depreciated award of \$1419.00 ($\$4730.00 \div 10 \text{ years} \times 3 \text{ years remaining}$).
18. With respect to the dining set, though, I am not satisfied that the landlord is entitled to the costs of have it replaced. The scratch on the table seems minor to me, and although there are some small gouges on a couple of chairs, that damage also seems superficial and would in no way affect the functionality of this set.
19. The remainder of the landlord's claim do succeed, though. The evidence submitted shows that the mattresses are heavily soiled, that a toilet seat is broken, that the towels that had been left behind were also heavily soiled. I also accept the landlord's testimony that the bed had been removed by the tenant. As these items were purchased just before the tenancy began, I find that the landlord is entitled to the costs he had claimed here.
20. I also accept the landlord's claim that extensive cleaning was required at the unit and that, in particular, extra work was required to rid the unit of the smell of the dogs' urine. Although no receipt was submitted for the cleaning, I find that \$300.00 in compensation is more than fair.

Decision

21. The landlord's claim for compensation for damages succeeds in the amount of \$2898.75 determined as follows:

• Laminate flooring.....	\$1419.00
• Toilet set	\$21.84
• Linens, towels, drapes	\$226.52
• 2 queen mattresses.....	\$770.40
• Missing queen bed.....	\$160.99
• Cleaning.....	\$300.00
Total	<u>\$2898.75</u>

Issue 2: Rent - \$1200.00

Relevant Submissions

22. The landlord stated that because of the damages that the tenant had caused to the unit, he was unable to rent the unit for the month after the tenant moved out and he suffered a loss of rental income for the month of June 2021.

23. Besides the damages that needed to be repaired, the landlord stated that the tenant had not returned his keys to him and it was several days into June 2021 before he even entered the unit. He also pointed out that, because of issues with Newfoundland Power, the electricity was disconnected from the unit and the landlord claimed that he had to go through a lengthy application process with Newfoundland Power to have the power restored.
24. The landlord argued that there was no way he could have rented that property for June 2021 and he is seeking \$1200.00 in compensation for the loss of rent he suffered.

Analysis

25. The landlord's evidence shows that the tenant had caused significant damage to the property during his tenancy and I agree with the landlord that because of those damages and because of the smell of urine, the unit was not ready for a new tenant to move into on 01 June 2021. I also accept the landlord's claim that the electricity was cut to the unit and that that issued further delayed the commencement of the repairs.
26. As the landlord was unable to rent the unit during June 2021, and as his inability to rent the unit was due to the fact that he had to carry out repairs which had been caused by the tenant, I find that his claim for \$1200.00 in compensation for rent for June 2021 succeeds.

Decision

27. The landlord's claim for a payment of rent succeeds in the amount of \$1200.00.

Issue 3: Hearing Expenses

28. With his application, the landlord submitted a hearing expense claim form, as well as an invoice for \$100.00 for the costs of hiring a process server, and a receipt showing that the landlord had paid a fee of \$20.00 to file this application. As the landlord's claim has been successful, the tenant shall pay these hearing expenses.

Issue 4: Security Deposit

29. The landlord stated that the tenant had paid a security deposit of \$600.00 on 30 June 2020. As the landlord's claim has been successful, the landlord shall retain that deposit as outlined in this decision and attached order.

Summary of Decision

30. The landlord is entitled to the following:

- a) Compensation for Damages \$2898.75
- b) Rent Owning \$1200.00
- c) Hearing Expenses \$120.00
- d) LESS: Security Deposit..... (\$600.00)
- e) Total Owning to Landlords \$3618.75

30 June 2022

Date

