

## Residential Tenancies Tribunal

Applications [REDACTED]  
[REDACTED]

Decision 21-0317-05

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 9:06 AM on 24 November 2021 via teleconference.
2. The applicant, [REDACTED] hereinafter referred to as “the tenant,” was represented at the hearing by his mother, [REDACTED] and his father, [REDACTED].
3. The respondents, [REDACTED] hereinafter referred to as “landlord1” and “landlord2”, respectively, also participated in the hearing.

### Issues before the Tribunal

4. The tenant is seeking an order for refund of the security deposit in the amount of \$975.00.
5. The landlords are seeking the following:
  - An order for a payment of \$4545.00 in compensation for damages, and
  - Authorization to retain the \$975.00 security deposit.

### Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
7. Also relevant and considered in this case is section 14 of the *Residential Tenancies Act, 2018*.

## **Preliminary Matters**

8. The landlords amended their application at the hearing and stated that they were now only seeking compensation for the costs of replacing the patio door, \$1592.75 (\$1385.00 + tax), and authorization to retain the security deposit.

## **Issue 1: Compensation for Damages - \$1592.75**

### **Relevant Submissions**

#### The Landlords' Position

9. The landlords entered into a 1-year, fixed-term lease with the tenant on 01 September 2018, and a copy of the executed agreement was submitted with their application. That lease was renewed in 2019 and again in 2020. The agreed rent was set at \$1250.00 and it is acknowledged in the lease that the tenant had paid a security deposit of \$975.00.
10. On 23 January 2021 the tenant suffered a severe stroke and as a result he was hospitalized, and is continuing to reside in long-term care to this date. The tenant was completely moved out of the unit by 28 February 2021, and the landlords regained possession of the rental property on 01 March 2021.
11. Landlord 1 testified that they had totally renovated the apartment prior to the tenant moving in, and after they regained possession of the unit, they noticed that the patio door was damaged and he claimed that there were screws in the door box, holding it together. With their application, the landlords submitted 5 close-up pictures of the damaged door (L#4). The landlords have since had the door and door box repaired by [REDACTED] but no receipt was submitted with their application.
12. The landlords are seeking the costs of replacing the door and door box and with their application, they submitted a quote (L#3) showing that it would cost \$1592.75 to have that work carried out.
13. Landlord 2 testified that he previously had a conversation with the tenant about how damage at the rental premises, specifically to the window screens, made it appear as though someone had tried to break into the rental premises.

#### The Tenant's Position

14. [REDACTED] testified that she had not noticed any damage to the door when they were moving the tenant's items out of the rental premises, and she stated that it appears as if the damage occurred when "someone had been trying to break in". [REDACTED] argued that he believed that the tenant would have notified the landlord of any damage to the door, had such damage occurred to the door while the tenant was in possession of the unit.

15. Regarding the submitted quote, [REDACTED] argued that this document was not an official quote from [REDACTED] but merely an e-mail outlining what work was required.

## 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 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*

17. The evidence submitted by the landlords does show that there is a small crack in the door box and in the side of the door, near the locking mechanism. Given that this door was new when the tenant moved in, that damage probably occurred during this tenancy.
18. However, the damage identified in the photographs appears to be minor, and I was not persuaded that the whole door and door box needs to be replaced. Indeed, the landlords have not replaced it, and have instead opted to have it repaired. I find that the landlords are therefore entitled to the costs of the repairs only. No receipt or invoice was submitted with their application, but I find that \$100.00 is fair, given the extent of the damage visible in the photographs.

**Decision**

19. The landlord's claim for compensation for damages succeeds in the amount of \$100.00.

**Issue 2: Security Deposit - \$975.00**

20. The tenant paid a security deposit of \$975.00 on 25 July 2018, and receipt of that deposit is acknowledged in the submitted rental agreement. As the landlords' claim has been partly successful, that deposit shall be disposed of as follows:

- a) Refund of Security Deposit ..... \$975.00
- b) **LESS: Compensation for Damages ..... (\$100.00)**
- c) Total Owing to Tenant..... \$875.00

21 September 2022

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Date

