

Residential Tenancies Tribunal

Decision 19-0420-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 am on 25 June 2019 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
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 compensation for “other” expenses totalling \$600.00

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 section 10 of the *Residential Tenancies Act, 2018*.

Preliminary Matters

6. This is the second application the Board has heard concerning this tenancy. [REDACTED] was heard on 04 February 2019 and as a result of that hearing the landlord was ordered to return to the tenant the \$425.00 security deposit.
7. The landlord amended her application and stated that she was now seeking a total of \$967.99 in compensation for “other” expenses.

Issue 1: "Other Expenses" - \$967.99

Relevant Submissions

The Landlord's Position

8. This tenancy began in February 2018. The agreed rent was set at \$850.00 and the tenant paid a security deposit of \$425.00.
9. The tenant vacated the unit on 29 November 2018.
10. Through this application, the landlord is seeking the costs of replacing a box spring which was disposed of by the tenant and she is seeking the costs of repairing a storm door.

Box Spring

11. The landlord rented the unit furnished but she stated that the tenant wanted to use her own bed during the tenancy. The landlord stated that she allowed the tenant to bring in her own bed and she instructed her to dispose of the mattress that was already there.
12. The landlord stated that after she regained possession of the property she discovered that the tenant had disposed of both the mattress and the box spring. The landlord denied that she had instructed the tenant to dispose of the box spring as it was in good condition. She stated that it was approximately 7 or 8 years of age.
13. The landlord stated that she has since purchased another box spring, second-hand, and she testified that she had paid \$200.00 for it. No receipt was submitted at the hearing.

Storm Door

14. The landlord stated that the rental unit was fitted with a relatively new storm door before the tenant moved in
15. During a wind storm, the tenant opened the door and the wind pulled the door from its hinges, damaging the door and the door frame.
16. The landlord submitted a receipt at the hearing (█ #1) showing that a replacement door cost \$367.99 and a second receipt (█ #2) showing that she was charged \$200.00 to have it installed. The landlord is also seeking \$200.00 for the costs of repairing the door frame. No receipts were submitted concerning that repair.

17. With respect to the cause of the damage, the landlord stated that she was absolutely sure that the damage was accidental.

The Tenants' Position

Box Spring

18. The tenant acknowledged that she had disposed of the mattress and box spring.
19. She testified that when she asked to use her own bed during the tenancy, the landlord told her to get rid of the bed that was already there as it was garbage. She denied that the landlord had instructed her to leave the box spring at the unit and she claimed that if she was so instructed, she would not have disposed of it. She pointed out that it was inconvenient to remove the box spring from the unit and she paid to have it disposed of.
20. The tenant pointed out that the landlord never questioned her about the box spring during her tenancy. She also stated that when she was informed by the landlord that she would not be returning the security deposit to her, the landlord never stated that the box spring was the reason why.

Storm Door

21. The tenant stated that she knew that the storm door was new and she claimed that she always tried to be careful with it.
22. She provided a similar account as the landlord as to how the door became damaged and she stated that she had tried her best to keep the door from coming off its hinges to the point that she became injured. She said that she had to take a week off of work to recuperate.

Analysis

23. Regarding the box spring, I was not persuaded that the landlord had instructed the tenant not to dispose of it and I accept the tenant's assertion that if she was so instructed, she would have left it at the rental unit. I also accept the tenant's testimony that she had paid to have the box spring removed from the rental unit and I found persuasive her argument that she would not have incurred that cost had she been instructed to leave it at the unit.
24. With respect to the storm door, statutory condition 2, outlined in section 10.(1) of the *Residential Tenancies Act, 2018*, outlines a tenant's obligations in any rental agreement and it states that a tenant is obliged to repair damage that was "caused by a wilful or negligent act". In cases where damage is caused accidentally or where the damage is the result of a material defect, the tenant cannot be held liable.


25. The tenant stated that the damage to the door was caused by the wind and not by anything she had done. The landlord did not dispute that testimony and she acknowledged that the damage was caused accidentally. For that reason, her claim does not succeed.

Decision

26. The landlord's claim for "other" expenses does not succeed.

23 October 2019

Date



John R. Cook
Residential Tenancies Tribunal