

## Residential Tenancies Tribunal

Decision 19-0479-05

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 11:05 am on 05 November 2019 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED], was represented at the hearing by [REDACTED], hereinafter referred to as “the landlord”.
3. The tenant and respondent, [REDACTED], hereinafter referred to as “[REDACTED]”, also participated in the hearing. His co-tenant, [REDACTED] (“[REDACTED]”), was represented at the hearing by [REDACTED] (“[REDACTED]”) and a letter of authorization is on file.

### Issues before the Tribunal

4. The landlord is seeking the following:
  - An order for compensation for damages in the amount of \$350.11,
  - An order for compensation for cleaning in the amount of \$300.00;
  - An order for a payment of rent in the amount of \$1575.00;
  - An order for a payment of late fees in the amount of \$75.00; and
  - Authorization to retain the security deposit of \$750.00.

### Legislation and Policy

5. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
6. Also relevant and considered in this decision is section 15 of the *Residential Tenancies Act, 2018* and policy 9-3: Claims for Damage to Rental Premises.

## **Preliminary Matters**

7. The landlord amended her application at the hearing and stated that she was now only seeking \$175.00 for the costs of cleaning and \$5.92 in compensation for damages.

## **Issue 1: Rent - \$1575.00**

### **Relevant Submissions**

#### The Landlord's Position

8. The landlord stated that she had entered into a 1-year, fixed-term rental agreement with the tenants on 01 July 2018 and a copy of the executed lease was submitted with her application (█ #1). The agreed rent was set at \$1000.00 per month and it is acknowledged in the rental agreement that the tenants had paid a security deposit of \$750.00.
9. In the beginning of September 2018, █ informed the landlord that he had moved out of the unit.
10. The landlord stated that in May 2019, she only received \$500.00 in rent and she therefore issued █ a termination notice on 21 May 2019. A copy of that notice was submitted at the hearing (█ #1). That notice was issued under section 17 of the *Residential Tenancies Act* and it had an effective termination date of 01 June 2019. The tenant vacated on 31 May 2019.
11. The landlord is seeking the remaining \$500.00 owing for May 2019.

#### The Tenants' Position

12. █ stated that he contacted the landlord at the end of April 2019 and he informed her that he could no longer afford the rent. He testified that he had an agreement with the landlord that he would only have to pay \$500.00 in rent for May 2019 and that he could vacate at the end of that month.
13. █ acknowledged that the tenants owed \$500.00 in rent for May 2019 and she did not contest the landlord's testimony or evidence.

### **Analysis**

14. There is no dispute that the tenants had only paid \$500.00 in rent for May 2019.
15. The landlord denied that she had an agreement with █ that he was only required to pay \$500.00 in rent for that month, and █ presented no other credible evidence at the hearing to corroborate that claim. Furthermore, █

contradicted ■ and agreed with the landlord that \$500.00 was owing for that month.

16. As the tenants had use and enjoyment of the rented premises up to 31 May 2019, I agree with the landlord that they are required to pay the full rent for that month. I accept the landlord's claim that she had only received \$500.00 in rent for May 2019 and I therefore find that her claim succeeds in the amount of \$500.00.

### **Decision**

17. The landlord's claim for a payment of rent succeeds in the amount of \$500.00.

### **Issue 2: Late Fees - \$75.00**

#### **Relevant Submissions**

18. The landlord has assessed late fees in the amount of \$75.00

#### **Analysis**

19. Section 15.(1) of the *Residential Tenancies Act, 2018* states:

#### ***Fee for failure to pay rent***

**15. (1)** *Where a tenant does not pay rent for a rental period within the time stated in the rental agreement, the landlord may charge the tenant a late payment fee in an amount set by the minister.*

20. The minister has set the following fees:

*Where a tenant has not paid the rent for a rental period within the time specified in the Rental Agreement, the landlord may assess a late payment fee not to exceed:*

*(a) \$5.00 for the first day the rent is in arrears, and*

*(b) \$2.00 for each additional day the rent remains in arrears in any consecutive number of rental payment periods to a maximum of \$75.00.*

### **Decision**

21. As the tenant has been in arrears since 02 June 2019, the landlord is entitled to an award for the maximum fee of \$75.00 set by the minister.

### Issue 3: Compensation for Damages - \$5.92

#### Relevant Submissions

##### The Landlord's Position

###### Light Bulbs

22. The landlord stated that she discovered that there were 4 burnt out lightbulbs at the unit after she regained possession of the property. She submitted a receipt at the hearing (█ #3) showing that she had paid \$11.50 for 4 replacement bulbs. The landlord is seeking \$5.62 in compensation for replacing those bulbs. She also submitted a CD-ROM and 2 of the photographs show that there were bulbs missing from some of the light fixtures.

###### Trip to Dump

23. The landlord stated that the tenants had left behind coats and jackets at the unit, a hard hat, buckets, a box of cups, kitchenware, some Christmas decorations, glasses and cups and she stated that there was a sign on the floor. She pointed to her photographs showing that these items were indeed left behind. The photographs also show that there was a mattress in the backyard, garbage, bags of recycling in the shed and a barbeque left on the back deck. The landlord stated that her husband collected those items from the rental unit and took them to the dump and she stated that she had paid him \$100.00. The landlord stated that it took 1.5 hours to have these items removed.

###### Broken Window

24. The landlord also claimed that the glass pane in a basement window had been smashed. She submitted a receipt at the hearing (█ #7) showing that she was charged \$227.70 to have that window replaced.

##### The Tenant's Position

###### Light Bulbs

25. The tenant stated that he was not aware that there were any light bulbs burnt out when he moved out and he claimed that there were some lightbulbs and lamp shades missing when he moved in. █ pointed to the landlord's Rental Premises Condition Report, which was submitted with her application, which shows that, during the incoming inspection, it was noted that a light was missing in the bathroom.

###### Trip to Dump

26. █ acknowledged that he had left behind many of the items show in the landlord's photographs. However, he claimed that he removed the barbeque and

that it is currently in his possession. He also claimed that he had removed the mattress and the garbage from the shed. ■■■ contested this portion of the landlord's claim and stated that the costs the landlord is seeking here should be included in the \$175.00 that the landlord is claiming for cleaning.

Broken Window

- 27. Regarding the window, ■■■ stated that this should be chalked up to vandalism and he did not know how this damage had occurred. He pointed out that he had informed the landlord about that damage in December 2018 but she did not repair it. He claimed that his heat bills increased as a result her not repairing the window. However, ■■■ stated that she was not contesting this portion of the landlord's claim so long as she is able to produce a receipt to the Board. She agreed with ■■■ that the landlord ought to have had that window repaired during his tenancy.

**Analysis**

- 28. I accept the landlord's evidence showing that there were some lightbulbs missing after the tenant moved out. But given that the Condition Report already identifies this an issue when the tenants moved in, I find that the landlord's claim for replacement bulbs does not succeed
- 29. I accept ■■■'s claim that he had taken the barbeque, the mattress and garbage from the shed before he vacated and the EXIF data associated with those pictures show that they were taken between 29 May and 31 May 2019, while the tenancy was still ongoing. Regardless, there was still a significant amount of garbage, debris and personal items left behind after ■■■ vacated and he did not dispute the reliability of the majority of the photographs. Regarding the costs the landlord is seeking here, I find that she is entitled to compensation for 1.5 hours of her labour, at the claimable rate of \$19.40 set by this Section: \$29.10.
- 30. ■■■ did not contest this portion of the landlord's claim and she stated that ■■■ and ■■■ would reimburse the landlord for the window. As such, that claim succeeds.

**Decision**

- 31. The landlord's claim for compensation for damages succeeds in the amount of \$256.80, determined as follows:

- Garbage Removal..... \$29.10
- Locksmith Fee ..... \$227.70
- Total..... \$256.80

## **Issue 4: Cleaning - \$175.00**

### **Relevant Submissions**

#### The Landlord's Position

32. The landlord stated that the unit was not adequately cleaned after the tenants vacated and she had to hire a cleaner at a cost of \$175.00. The landlord submitted a copy of the cleaner's invoice (█ #5) and a copy of an INTERAC e-Transfer receipt (█ #4) showing payment.
33. The invoice submitted by the cleaner states that she cleaned the kitchen cupboards, the dishwasher and stove, the refrigerator and the area behind the refrigerator and stove. She also fully cleaned the bathroom.
34. The landlord pointed to the photographs on the CD-ROM showing the condition of the unit after the tenant vacated to corroborate her claim that cleaning was required.

#### The Tenants' Position

35. █ complained that he had to do all the cleaning by himself with no help. He stated that he had spent days cleaning, sweeping and mopping the rental unit before he vacated.
36. █ did acknowledge, however, that the landlord's photographs do show the condition of the unit after he had vacated and he acknowledged that he had overlooked a few areas of the house.

### **Analysis**

37. The evidence submitted by the landlord shows that cleaning was required after the tenant vacated and the details on the cleaner's invoice correspond to the photographs submitted at the hearing. I also accept the landlord's claim that she had incurred \$175.00 to hire this cleaner. As such, her claim succeeds.

### **Decision**

38. The landlord's claim for cleaning succeeds in the amount of \$175.00.

## **Issue 5: Security Deposit**

39. The landlord stated that the tenant had paid a security deposit of \$750.00 on 12 June 2018 and receipt of that deposit is acknowledged in the submitted lease. As the landlord's claim has been successful, she shall retain that deposit as outlined in this decision and order.

**Summary of Decision**

40. The landlord is entitled to the following:

- a) Rent..... \$500.00
- b) Late Fees ..... \$75.00
- c) Compensation for Damages..... \$256.80
- d) Cleaning ..... \$175.00
- e) LESS: Security Deposit ..... (\$750.00)
- f) Total Owing to Landlord ..... \$256.80

13 April 2020

\_\_\_\_\_  
Date



\_\_\_\_\_  
John R. Cook  
Residential Tenancies Tribunal