

Residential Tenancies Tribunal

Decision 20-0035-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:25 pm on 27 February 2020 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.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “[REDACTED]” and “[REDACTED]”, respectively, also participated. They were represented by [REDACTED] (“[REDACTED]”), a registered social worker with [REDACTED].

Issues before the Tribunal

4. The landlord is seeking the following:
 - An order for a return of missing possessions valued at \$1500.00;
 - An order for a payment of rent in the amount of \$1000.00;
 - An order for a payment of late fees in the amount of \$75.00;
 - An order for compensation for damages in the amount of \$100.00;
 - An order for a payment of \$500.00 for “other expenses”; and
 - Authorization to retain the \$500.00 security deposit.

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 case is sections 15 of the *Residential Tenancies Act, 2018*.

Issue 1: Missing Possessions - \$1500.00

Relevant Submissions

The Landlord's Position

7. The landlord stated that he had entered into a 4-month, fixed-term lease with the tenants on 01 September 2019 and a copy of that agreement was submitted with his application (█ #1). The agreed rent was set at \$1000.00 per month and the landlord stated that the tenants had paid a security deposit of \$500.00.
8. On 30 October 2019, █ sent an e-mail to the landlord informing him that she was moving out of the unit at the end of November 2019 and █ would be staying on as sole-leaseholder. She vacated on 30 November 2019.
9. █ fell into rental arrears after █ moved out. In an e-mail, dated 28 December 2019, the landlord instructs █ to pay the remaining rent that was owing for December 2019 or he will have to vacate by 31 December 2019. The landlord regained possession of the property on 12 January 2019.
10. The landlord stated that the tenants were provided with a washer and a dryer when the tenancy began, but he complained that when his property manager went to the unit on 12 January 2020, those items were missing.
11. He testified that these appliances were 6 years old and he claimed that he had paid \$750.00 for each of them. No receipt or invoice was submitted at the hearing. These items have since been replaced with used models and the landlord stated that he purchased them for \$500.00. No receipt was submitted at the hearing.
12. The landlord claimed that he had contacted the RCMP about these missing appliances, but to the date of the hearing, no charges have been laid and the landlord claimed that the RCMP have not been able to contact the tenants.
13. The landlord is seeking an order for a payment of \$500.00 in compensation for these missing items.

█'s and █'s Position

14. █ denied that he had taken the washer and dryer and he claimed that when he vacated on 10 January 2020, those appliances were still at the unit.
15. █ pointed out that the rental unit had been broken into one night while he and █ were in bed asleep. He claimed that these individuals used a hammer and screwdriver to get past the main entrance door. █ stated that she had been

informed by ■■■ that there had been a break-in at the unit and that she did not feel safe there.

16. ■■■ suggested that the washer and dryer may have been taken after he moved out or even taken by the landlord's property manager. ■■■ pointed out that in early January 2020 when the landlord was trying to get him to leave the property, he instructed the tenant to leave the keys to the unit in the apartment and to leave the doors unlocked. He stated that as the unit was left unsecured, anyone could have entered after he moved out and removed those appliances.

Analysis

17. This portion of the landlord's claim does not succeed. No evidence was presented to establish the costs the landlord is seeking here (e.g., receipts or invoices, etc.) and there was also insufficient evidence to establish that these items were removed during this tenancy. ■■■ denied that he had removed these items, there was no conclusion reached by the RCMP about this matter, and there was no outgoing walkthrough conducted with ■■■ on 10 January 2020.
18. The landlord's evidence does show that he had instructed the tenant to leave the premises unlocked after he vacated and, without any further compelling evidence, it seems just as probable that these appliances were taken from the unsecured unit after the tenant moved out.

Decision

19. The landlord's claim for compensation for missing possessions does not succeed.

Issue 2: Compensation for Damages - \$100.00

Relevant Submissions

The Landlord's Position

20. The landlord submitted a photograph showing a window screen laid on a countertop and he pointed out that there was a rip in that screen. He also complained that the "metal support" is broken and will no longer fit in the window. That screen has since been disposed of.
21. The landlord is seeking \$100.00 for the costs of replacing the screen. It has not yet been replaced and the landlord submitted no quotes or receipts at the hearing. He claimed that the screen was 2 years old when the tenancy began and in good condition.

█'s and █'s Position

22. █ stated that he did not know what had happened to the screen and that he was not paying attention to the screen when he was moving.
23. █ also argued that it would not cost \$100.00 to replace a window screen.

Analysis

24. The landlord presented no evidence at the hearing to establish the costs he is seeking here and for that reason his claim does not succeed. Additionally, based on previous cases I have heard, I agree with █ that \$100.00 is an excessive claim for a window screen.

Decision

25. The landlord's claim for compensation for damages does not succeed.

Issue 3: Other Expenses - \$500.00

Relevant Submissions

The Landlord's Position

26. The landlord submitted 8 photographs showing the condition of the unit after █ moved out. These photographs show that the unit was left in a very poor state and there is a significant amount of garbage and personal belongings all throughout the unit.
27. The landlord stated that he hired cleaners to remove the garbage and carry out the cleaning. He pointed out that there were dirty dishes left behind that had to be cleaned and he claimed that all of the kitchen needed cleaning. He stated that the floors needed cleaning, everything needed to be dusted off and the bathroom and bedrooms required cleaning as well. The landlord also complained that he had to store a mattress and box spring in the storage room and he pointed out that there were numerous other items left in that room by the tenants.
28. The landlord claimed that he had hired cleaners to clean the property and that he had also carries out some of the cleaning. He stated that it took 3 days to carry out that work and he was working for 8 hours during each day. The landlord stated that he had paid his cleaners \$500.00 for that work. No receipt was submitted at the hearing.

█'s and █'s Position

29. █ stated that the rental unit was dirty when she moved in and she had to request that the landlord hire cleaners.
30. █ and █ both stated that the landlord's photograph of the storage room, which shows that there is a lot of clutter in that room, shows the condition of that room when they moved in. They complained that the previous tenants had left behind many of the items seen in that photograph.

Analysis

31. The evidence submitted by the landlord does show that the rental unit was left in a poor state after the █ had vacated. Although I don't doubt █'s claim that the unit was not clean before she moved in, it was not disputed that the landlord hired a professional cleaner at that time, and I am the view that it ought to have been left in the same state when █ vacated.
32. I accept █'s claim that he is not responsible for the all the items that were left in the storage room. With that in mind, and based on the photographs submitted at the hearing, I find that the landlord is entitled to compensation for 15 hours of his personal labour to clean the rental unit.
33. Policy with this Section is that an application may claim \$19.40 per hour for their personal labour. As such, the landlord's claim succeeds in the amount of \$291.00.

Decision

34. The landlord's claim for cleaning succeeds in the amount of \$291.00.

Issue 4: Rent - \$1000.00

Relevant Submissions

The Landlord's Position

35. The landlord stated that he had received no rent for December 2019 and he is seeking a payment of \$1000.00 for that month.

█'s and █'s Position

36. █ did not dispute the landlord's claim that he had not paid rent for December 2019. He stated that he had lost his job in December 2019 and that he was going through some financial hardships at that time.

Analysis and Decision

37. As it is not disputed that [REDACTED] has not paid rent for December 2019, the landlord's claim succeeds in the amount of \$1000.00.

Issue 5: Late fees - \$75.00

Relevant Submissions

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

Analysis

39. Section 15 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.

40. The minister has prescribed 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.

41. As [REDACTED] has been in arrears since 02 December 2019, the landlord is entitled to an award for the maximum fee of \$75.00 set by the minister.

Decision

42. The landlord's claim for late fees succeeds in the amount of \$75.00.

Issue 6: Security Deposit

43. The landlord stated that the tenants had paid a security deposit of \$500.00 on 16 August 2019. That deposit was retained by the landlord after [REDACTED] moved out and was held as a security deposit for [REDACTED]'s tenancy.

44. As the landlord's claim has been successful, he shall retain that security deposit as outlined in this decision and attached order.


Summary of Decision

45. The landlord is entitled to the following:

- a) Cleaning.....\$291.00
- b) Rent\$1000.00
- c) Late Fees\$75.00
- d) LESS: Security Deposit..... (\$500.00)
- Total Owing to Landlord\$866.00

01 June 2020

Date



John R. Cook
Residential Tenancies Tribunal