

Residential Tenancies Tribunal

Decision 20-0037-03

Michael Greene
Adjudicator

Introduction

1. The hearing was called at **2:00 pm** on **10 February 2021** at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador and via Bell Teleconferencing System.
2. The applicant, [REDACTED] ([REDACTED]), hereafter referred to as the landlord, participated in the hearing. (*Affirmed*).
3. The respondent, [REDACTED] ([REDACTED]), referred to as tenant1, participated in the hearing. (*Affirmed*).
4. The respondent, [REDACTED] ([REDACTED]), referred to as tenant2, participated in the hearing. (*Affirmed*).
5. The landlord and tenants entered into a written monthly rental agreement with rent set at \$1500.00 per month and due on the 1st day of each month and a security deposit in the amount of \$1175.00 was collected on this tenancy on or about 09 May 2018 (**ORDERED RETURNED BY** [REDACTED]).
6. In a proceeding under the *Residential Tenancies Act*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

Preliminary Matters

7. The Security Deposit has been disposed of in a separate order [REDACTED].

Issues before the Tribunal

8. The landlord is seeking the following:
 - a) Compensation for Damages **\$894.18**;
 - b) Hearing expenses.

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in the *Residential Tenancies Act, 2018 (the Act)*, Section 47.
10. Also relevant and considered in this case are:
 - a. Sections 19, 34 and 35 of *the Act*, and;
 - b. Policy 12-1: *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*, and;
 - c. Policy 9-3: *Claims for Damages to Rental Premises*, and;
 - d. Policy 9-5: *Life Expectancy of Property*.

Issue 1: Compensation for Damages - \$894.18

Relevant Submissions

Landlord Position

11. The landlord testified that when the property was recovered on or about 31 May 2018, it was noted that the property was left in an unacceptable condition with respect to cleanliness. The landlord testified that there was an excessive amount of dog hair, socks, dust and a lighter.
12. The landlord submitted into evidence photos of the property taken by the landlord 01 June 2019 (**Exhibit L # 1**) to demonstrate the condition the tenants left the property. The landlord further submitted a copy of an invoice from Bye the Bay Cleaners (**Exhibit L # 2**) in the amount of \$630.18 to clean a couch, love seat and three rugs in the property along with 6 hours of cleaning services. The landlord is claiming an additional \$264.00 for self-labor (2 people for 4 hours at a rate of \$33.00 per hour).
13. The landlord testified that the amount of hair that was swept up was excessive and if a cleaning company went through the property, they did the tenants a disservice.

Tenant Position

14. The tenants dispute the claim of the landlord stating that when they entered the property, they engaged the services of a cleaner to clean the property. They state that the unit was being used as an air bnb, was furnished, and the basement was filled with the landlord's personal belongings.
15. The tenants testified that they purchased a home on [REDACTED] and moved for the end of May 2019. They further added that they engaged the services of [REDACTED] cleaners ([REDACTED]) to clean the unit at the end of their tenancy and presented a copy of the invoice for the services (**Exhibit T # 1**) in the amount of \$400.50.
16. The tenants feel they were entitled to their security deposit and don't think responsibility for the landlord's claim is theirs.

Analysis

17. The basis of determining awards for any damage claim is the same. The applicant holds the burden of proof and in cases associated with Residential Tenancies the legal test of proof is "on the balance of probabilities".
18. In presenting a claim the applicant is required to:
 - a. (1) show that a damage exists;
 - b. (2) show that the respondent is liable for the damages and;
 - c. (3) show a cost for the repair or replacement of the damages.
19. On the matter above, I will deal with each of the tests to determine if the claim is successful. Firstly, the existence of the damages. The landlord led photographic evidence from various locations of the home showing dust, apparent pet hair, clothing, mouse droppings and little bits of garbage. The tenants have acknowledged that they are the owners of two Labrador Retrievers (black & yellow).
20. The tenants suggested that the hair in the photos was the result of the mouse infestation indicating that the mice were shedding. The tenants indicated that they had the house professionally cleaned on 27 May 2019 and the landlord photos were taken 01 June 2019. That is only 3 days between. I would suggest that if this were the case, then the infestation would be such that you would be walking on mice and the floors would be black with dropping and not simply the 8 – 10 droppings visible.
21. The above sounds almost ridiculous, and if I as a reasonable third party were to accept the tenants' notion that the hair in the photos came from mice, it would be ridiculous. I do not accept the tenants' version of events. The hair on the couch

and floors are clearly blonde (or yellow in color) and black. The hairs are from the dogs and I say this with 100% confidence as an owner of a yellow Labrador Retriever for the last 12 years. These dogs shed excessively.

22. I would suggest to the tenants that the cleaner that was hired by them did not clean anything that was under a chair, bed or in an area that was covered by anything. The floors were likely swept and mopped around furniture, etc. In fact, this is evident in the landlord photos as a clear line from dust to a clean floor. The dust and dog hair existed, it is that simple.
23. The tenants further claim that they had to engage a cleaner at the onset of the tenancy but did not provide a copy of the invoice for the services. The notion that the property was used as an air bnb prior to the tenancy is irrelevant. Similarly, the notion that the landlord's belongings were stored down stairs is also irrelevant. These things happen all the time. In fact, the notion that it was an air bnb would lead me to believe that the cleanliness of the property would be at a higher standard as it is cleaned between guests.
24. The landlord has supplied an invoice from Bye the Bay Cleaners for the cleaning of the couch set and rugs within the property. Further the landlord is claiming for self-labor for two people at a rate of \$33.00 per hour for 4 hours. Residential Tenancies allows self-labor to be charged at a rate of minimum wage plus \$8.00. At the time in question the minimum wage was \$11.40 per hour and therefore the maximum self-labor rate to charge is \$18.40/hour.
25. I find the charge from the commercial cleaner to be reasonable and documented. This documentation also allows for 6 hours of cleaning in addition to the couches etc., so I fail to see why there is an additional 4 hours for two people to also clean. I would clearly expect significantly more uncleanliness for this much cleaning. As such, I find that the additional self-labor cleaning is unreasonable given the amount of cleaning demonstrated by the evidence and as such the self labor claim in the amount of \$264.00 fails.

Decision

26. The landlord's claim for damages succeeds in the amount of \$630.18.

Summary of Decision

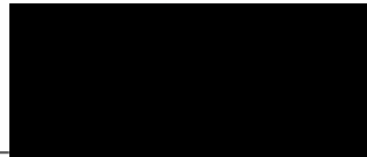
27. The landlord is entitled to the following:

a) Damages\$630.18

f) **Total owing to Landlord\$630.18**

12 February 2021

Date



**Michael Greene
Residential Tenancies Tribunal**