

Residential Tenancies Tribunal

Application 2025-0578-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 2:02 p.m. on 12-August-2025.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as “the landlords”, were represented by [REDACTED], who attended by teleconference.
3. The respondents, [REDACTED] “the tenant” and [REDACTED] – “the executor” for [REDACTED] and potential guardianship of the Estate of [REDACTED] did not attend.

Preliminary Matters

4. The landlord stated that, following the passing of one of the tenants, he was contacted by sisters of the tenants to access the unit. Subsequently, the landlord was approached by the lawyer, who stated that he was in possession of the will of the tenant who passed and confirmed that one of the sisters was the rightful executor. The landlord stated that the application was submitted to the court, and that the will was executed. The landlord contacted his lawyer, and both the landlord’s and the executor’s lawyers developed an agreement, signed by the executor, under which she accepted responsibility. It was further noted that the executor has a potential guardianship of the estate of the second tenant, and that the executor was identified as the person responsible for the second tenant’s health and well-being (LL#1). The executor arranged for the remaining tenant to be placed in a healthcare facility due to a mental illness described by the landlord as dementia. Following this, the executor removed all belongings from the rental unit by the end of June, after which the landlord regained possession and access to the unit.
5. The landlord submitted an affidavit with their application stating that they had served the executor with the notice of hearing electronically via e-mail to [REDACTED] on 23-July-2025 (LL#2). The landlord further stated that the email address used to serve the executor with notice of this hearing was provided by her lawyer, and that this email address, phone number and address was given jointly by the executor and her lawyer for the purpose of contact. The landlord submitted proof of service and also forwarded the notice of the hearing to the executor’s lawyer. Given the unique circumstances of this case, I accept service on the executor of the will and the potential guardian of the estate of the second tenant. As the executor is both the legally recognized executor of the first tenant’s will and the person identified as responsible for the second tenant, who has an illness, I

find that service on this individual constitutes good service in this matter. As the executor was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.

6. There was a fixed-term rental agreement which commenced on 1-August-2023 for one year and then transferred into the month-to-month relationship. The landlord stated they become aware of the tenant's passing away on 5-June-2025 and stated that the second tenant was removed from the premises by the executor at the end of June to a special health care facility. Rent was \$2200.00 per month due on 1st of each month. A security deposit of \$1000.00 was collected on 13-July-2023 and is still in the landlord's possession.
7. The landlord amended their application to remove the request of vacant possession and to increase rent from \$2200.00 as per their application to \$4400.00 including rent for the month of July.

Issues before the Tribunal

8. The landlord is seeking:
 - Rent paid \$4400.00;
 - Compensation paid for damages \$1000.00;
 - Security Deposit to be applied against any monies owed \$1000.00.

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
10. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 14: Security Deposit, and following sections of the *Residential Tenancies Policy* Section 2-4; Deposits, Payments and Fees, Section 9-3: Compensation for Damages to Rental Premises.

Issue # 1: Compensation paid for Damages \$1000.00

Relevant Submissions:

11. The landlords are seeking compensations paid for damages to the unit that occurred during the tenancy as per damage ledger that they submitted, see copy below:

1	Hole in hallway wall - Drywall replace plaster paint	\$ 350.00
2	Back door window - replace and install	\$ 400.00
3	Cleaning - dog urine and feces	\$ 250.00

Landlord's position on each item is as follows:

#1: Hole in hallway wall \$350.00

12. The landlord is seeking compensation of \$350.00 for labor and materials to repair a hole in the wall. He testified that he believed the damage was caused by a foot being kicked into the wall. The landlord stated that this damage was not present at the beginning of the tenancy and that he is seeking compensation for the renovation.

#2: Back door window \$400.00

13. The landlord is seeking \$400.00 for door window replacement. He testified that the RNC was conducting a wellness check in the unit and contacted him to ask how they could enter. The landlord, not having a key, indicated that breaking the window would be preferable and less costly than breaking the door. He stated that he incurred expenses of \$185.00 plus tax for the window itself and paid \$200.00 for installation.

#3: Cleaning \$250.00

14. The landlord is seeking \$250.00 for cleaning. He stated that when the tenant was found deceased, it had been approximately five to seven days that the tenant remained in the unit. During that time, a small dog was also locked in the unit with the deceased tenant. After the tenant was removed, the landlord himself completed the cleaning. He testified that, due to the dog being locked in the unit, there was feces and urine throughout the premises, which required him to clean all of the floors and remove the waste. In addition, he stated that he had to dispose of the couch on which the tenant was found. The landlord explained that the cleaning, including the removal and disposal of the couch, took him approximately 3.5 to 4 hours.

Analysis

15. In accordance with *Residential Tenancies Policy 9-3*, the applicants are required to show:

- *That the damage exists;*
- *That the respondent is responsible for the damage, through a willful or negligent act; and*
- *The value to repair or replace the damaged item(s).*

16. I accept the landlord's testimony as the respondents were not present or represented during the hearing to provide their account about each item.

#1: Hole in hallway wall \$350.00

17. The landlord is seeking compensation of \$350.00 for labor and materials to repair a hole in the wall. He testified that he believed the damage was caused by a foot being kicked into the wall. The landlord stated that this damage was not present at the beginning of the tenancy and that he is seeking compensation for the renovation.

18. I asked whether any evidence had been submitted. The landlord confirmed that he did not have any photographs or receipts. He stated that someone completed the work for him, which took approximately three hours of labor and required around \$100.00 worth of materials. The landlord stated that the unit was renovated before the tenancy in 2023.

19. As per Section 9-3 of the Policy, I find that the landlord did not provide any evidence to show that the damage existed, that it occurred during the tenancy, that the tenants were responsible for the damage, or to substantiate the cost of the repairs or materials. Therefore, I find that the landlord has failed to prove their claim.

20. The landlord's claim for compensation for the wall repair does not succeed.

#2: Back door window \$400.00

21. The landlord is seeking \$400.00 for door window replacement. He testified that the RNC was conducting a wellness check in the unit and contacted him to ask how they could enter. The landlord, not having a key, indicated that breaking the window would be preferable and less costly than breaking the door. He stated that he incurred \$185.00 plus tax for the window itself and paid \$200.00 for installation.
22. I accept the landlord's testimony that the RNC entered the unit by breaking the door window in order to conduct a wellness check, and that such action was necessary under the circumstances. I also accept the landlord's statement that he did not have a key to the unit and acknowledge that it is standard practice for a landlord to maintain a key. I further accept that the damage to the door window occurred as a result of the RNC's entry.
23. However, according to the section 9-4 of the *Policy* for the tenant to be responsible for the damage, the landlord must provide evidence showing that the damage occurred due to the willful or negligent act of the tenant. Under these circumstances the damage was not caused by any willful or negligent act of the tenant. As the damage arose from the actions of the RNC during a health check, and not from the conduct of the tenant, I find that the tenant is not responsible for the cost of repair.
24. Accordingly, the landlord's claim for the damage to the door window does not succeed.

#3: Cleaning \$250.00

25. The landlord is seeking \$250.00 for cleaning. He stated that when the tenant was found deceased, it had been approximately five to seven days that the tenant remained in the unit. During that time, a small dog was also locked in the unit with the deceased tenant. After the tenant was removed, the landlord himself completed the cleaning. He testified that, due to the dog being locked in the unit, there was feces and urine throughout the premises, which required him to clean all of the floors and remove the waste. In addition, he stated that he had to dispose of the couch on which the tenant was found. The landlord explained that the cleaning, including the removal and disposal of the couch, took him approximately 3.5 to 4 hours.
26. I accept landlord's testimony that the unit required cleaning after the tenant was found deceased in the unit for a period of 5–7 days, during which time a small dog was also locked inside. I accept that landlord spent approximately four hours completing the necessary cleaning, which included the removal of the couch, and that the cleaning was necessary due to the circumstances.
27. However, I find that this cleaning was not required as a result of any willful or negligent act of the tenant. The tenant's passing in the unit, as well as the pet being confined inside during that time, were not matters within the tenant's control. Therefore, the tenant cannot be held responsible for the resulting cleaning.
28. Accordingly, the landlord's claim for cleaning does not succeed.

Decision

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

Issue # 2: Rent paid \$4400.00

Landlord's Position;

30. The landlord is seeking rent in the amount of \$4400.00 for the months of June and July. The landlord testified that the tenants did not pay rent on 1-June as required by the rental agreement. He is also seeking rent for the month of July, stating that they were unable to secure new tenants during that time because the unit required renovations and repairs.
31. The landlord explained that on 19-June the executor removed all of the tenants' belongings and stated that there was insufficient time remaining in June to finish the repairs, which included repainting the entire unit, repairing the stairs, replacing the stove, and addressing staining. He further testified that the renovations continued into July and August, and that no tenants occupied the unit during those months. The landlord is seeking rent to be paid in full.

Analysis

32. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid under a rental agreement by a tenant during the use or occupancy of a residential premises.
33. I accept the landlord's testimony that the tenants did not pay rent for June, as the respondents were not present or represented during the hearing to dispute the landlord's claim. I accept the landlord's statement that following the removal of the tenants' belongings, he began repainting and carrying out repairs to the unit. I also accept that the stove required replacement and that some repairs were still ongoing through July and August, during which the unit remained vacant.
34. However, I find that the landlord has not shown that the repairs undertaken were the responsibility of the tenants. The landlord failed to provide sufficient evidence to establish that the damages occurred during the tenancy and that the tenants were responsible for them, therefore I find that the landlord failed to justify the loss of rent for the month of July to be tenant's responsibility. While I accept that some repairs were necessary as per paragraph 24 and 27 of this decision, I find that they could reasonably have been completed within 10 days after 19-June.
35. Accordingly, I find that the tenants were responsible for unpaid rent for the month of June in the amount of \$2200.00.

Decision

36. The landlord's claim for rent succeeds in the amount of \$2200.00.

Issue # 5: Security deposit to be applied against any monies owed \$1000.00

Analysis

37. Section 14 of the *Residential Tenancies Act, 2018* states:

Security deposit

14. (8) A security deposit is not an asset of the landlord but is held by the landlord in trust and may be used, retained or disbursed only as provided in this section.
- (9) Not later than 10 days after the tenant vacates the residential premises, the

landlord shall return the security deposit to the tenant unless the landlord has a claim for all or part of the security deposit.

- (10) Where a landlord believes he or she has a claim for all or part of the security deposit,
 - (a) the landlord and tenant may enter into a written agreement on the disposition of the security deposit; or
 - (b) the landlord or the tenant may apply to the director under section 42 to determine the disposition of the security deposit.
- (11) Where a tenant makes an application under paragraph (10)(b), the landlord has 10 days from the date the landlord is served with a copy of the tenant's application to make an application to the director under paragraph (10)(b).

38. The landlord's claim for losses has been successful as per paragraphs 28 and 35 and as such, the security deposit shall be applied against monies owed. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to a tenant for the entire period that the landlord has had the security deposit. The interest is calculated as simple interest and is not compounded. The interest in 2023 was 0% and the annual interest in 2024-2025 is 1%.

Decision

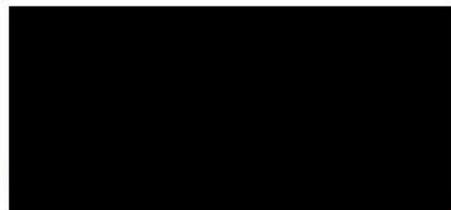
39. Security deposit plus interest of \$1016.16 to be applied against monies owed.

Summary of Decision

40. The respondents shall pay the landlord \$1183.84 as follows:

Rent.....	\$2200.00
Less than Security Deposit.....	\$1016.16
Total	\$1183.84

September 16, 2025
Date



Oksana Tkachuk, Adjudicator
Residential Tenancies Office