

Residential Tenancies Tribunal

Application 2025-1058-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 10-December-2025 at 9:08 am.
2. The applicant, [REDACTED] hereinafter referred to as the landlord, attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as the tenant, was represented at the hearing by [REDACTED] who also attended via teleconference.
4. Two witnesses were called by the landlord: [REDACTED] and [REDACTED]. Both attended by teleconference.

Procedural History

5. The tenant acknowledged they were properly served.

Issues before the Tribunal

6. Should the landlord's claim for unpaid rent succeed?
7. Should the landlord's claim for damages succeed?
8. What is the proper disposition of the security deposit?

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 (the *Act*).

Issue 1: Unpaid Rent

10. The landlord claims unpaid rent for the months of October and November 2025. As November's rent is claimed because of alleged damages, it will be dealt with in Issue 2, below.

Landlord

11. The landlord claims \$1950.00 in rent and \$75.00 in late fees for the month of October 2025. He points out that the rental agreement (LL#1) was a fixed term set to end on 31-October-2025. He submits that he never received a termination notice to end the agreement early and he is therefore entitled to rent for the last month of the agreement.

Tenant

12. The tenant testified that they rented the premises for the purposes of placing an employee while they were working for the tenant. They also testified that this employee left the premises on 30-September-2025. They submit that the landlord testified to entering the premises without proper notice several times during October, and that this means he either violated the rental agreement or took possession of the premises on 1-October-2025, thereby accepting the tenant's intent to vacate early.

Analysis

13. A rental agreement is a contract, and s. 10 of the *Act* dictates terms that must be included in the contract. Statutory condition 5 in s. 10(1) mandates that a landlord shall not enter without notice and lists several exceptions. None of those exceptions are present in this case so, if indeed he entered the premises without notice, the landlord breached the terms of the contract. However, it does not follow that the rental agreement was terminated. A breach of contract that goes to the heart or purpose of the agreement, effectively denying the innocent party of the value of the contract, may allow them to repudiate the contract. The *Act* provides specific ways a lease may be terminated by failure to comply with material terms (see s 19-24). In this case, the alleged breach or breaches were minor and there was no evidence of any damages caused thereby. They are therefore not relevant to the discussion of rent in lieu of notice.
14. The tenant did not terminate the contract prior to the month of October 2025. The landlord testified that he attempted to mitigate his losses by finding a new tenant and failed. The landlord is entitled to rent for this month.
15. S. 15(1) of the *Act* states that 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. The minister has set the rate for late payment fees at \$5.00 for the first day and \$2.00 for each subsequent day, to a maximum of \$75.00. As rent has been overdue for more than 35 days, the maximum late fee of \$75.00 applies.

Conclusion

16. The landlord's claim succeeds in the amount of \$1950.00 for unpaid rent and \$75.00 for late fees.

Issue 2: Damages

17. The landlord claims \$2530.00 in compensation for damages as well as an additional \$1950.00 in rent. The compensation for damages claims relates to two items that result from the same alleged breach. In accordance with the Residential Tenancies Program Policy and Procedure Guide, Policy 9-003, when a landlord makes a claim for damages, they must provide sufficient evidence to establish the extent and nature of any damages, that the damage was caused by a wilful or negligent act of a tenant or a person they allowed on the premises, and the cost of repair or replacement. This should include documentary evidence wherever reasonably possible.

Landlord's Position

18. The landlord claims \$460.00 for a deodorizing treatment and \$2070.00 for a deep clean, all to remedy an odour they say the tenant caused in the premises, though he acknowledges the premises looked clean. He described it as a "strong curry smell." The landlord and the two witnesses all testified they personally observed this smell. The first witness described it as a "very strong cooking smell" and believed it was the smell of curry. She said it was "very strong throughout the whole unit." She admitted that she was hired to remove the smell with an air treatment but was unsuccessful. The second witness was also hired by the landlord to remove the smell. He described it as "a really strong smell of curry" which was detectable "as soon as you open the door." He testified that he removed the smell, but doing so required a deep cleaning treatment which included shampooing the carpet and all fabric materials. He testified also that he ran a finger through multiple areas in the premises and felt a "gunk" that led him to believe the premises hadn't been professionally cleaned for "about a year or more."

Tenant's Position

19. The tenant provided T#1, which includes a receipt for a cleaning company they hired to clean the premises and about 16 photos of the premises on the last day their employee was present, 21-September-2025. They point out that the parties agree that the employee had only been at the unit for 7 months, so if there was residue which had been left there for a year or more, it must have predated their occupancy. They submit that the landlord provided no evidence of the state of the premises on move in. They note that the witnesses were hired to perform work for the landlord and suggest that this impugns their credibility. They also note that the employee they placed in the unit is Iranian and suggest she would not have used curry in her cooking. They point out that a tenant is financially responsible for only wilful or negligent acts and suggest that a cooking odour does not fall within this definition. They submit that odours should only reach this level if they render the premises unfit for habitation or impact the health and well-being of others.

Analysis

20. The landlord and two witnesses testified as to the presence of a strong odour, and no evidence was provided to the contrary, so I accept that there was a strong odour. Whether or not it was curry is irrelevant.
21. The landlord testified that the odour was not present before the tenancy. No evidence directly contradicted this. The tenant suggested it was based on the testimony of the

witness who indicated he saw residue which he believed was present for “a year or more.” I do not agree. The witness’ testimony suggested the smell was from carpeted and fabric surfaces throughout the unit, not particular buildup he could feel with his finger. Additionally, I do not accept he could definitively date the age of any dirt or residue. Clearly, he was experienced in the field, but he could still be mistaken. I find that the odour occurred during the tenancy, and therefore infer it was caused by the tenant or a person they allowed on the premises.

22. The rental agreement (LL#1) is in the form of the sample Residential Tenancies Agreement produced by the Government of Newfoundland and Labrador as a guideline for the benefit of landlords and tenants. Only two provisions have been added to this basic template: no smoking and no dogs (s. 18, page 4 of LL#1). There are no specific provisions of the rental agreement pertaining to cooking or cooking odours.
23. In the absence of such a clause, this tribunal does not consider cooking odours alone to constitute compensable damages. A tenant is liable only for damages caused wilfully or negligently. There was no suggestion the tenant purposefully and wilfully seeded a smell throughout the premises. They likely did cook wilfully. However, cooking is normal use and would not be considered negligent. Not all tenants will necessarily cook in a way that produces a cooking odour, just as not all tenants might, for example, park in a provided driveway. All the same, any degradation of a driveway would be considered normal wear and tear and be non-compensable. I therefore find that the tenant was not in breach of the rental agreement or the *Act* by causing the cooking odour.

Conclusion

24. The landlord’s claim for damages fails, as does the landlord’s claim of rent for the month of November 2025.

Issue 3: Security Deposit

25. The landlord is owed moneys and may therefore apply the security deposit against the sum owed. The security deposit was \$1462.50 and was received on or about 6-March-2025.
26. S. 14(7) of the *Act* states that a landlord shall credit interest to the tenant on the full amount or value of the security deposit, at the rate prescribed by the regulations, during the time the security deposit is held by the landlord. The regulations prescribe a simple cumulative interest rate of 1% annual for the year 2025. Calculated to the date of the hearing, this yields a total interest of \$11.22.

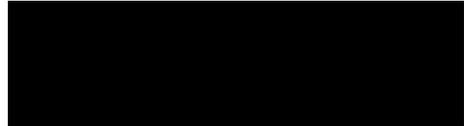
Summary of Decision

27. The landlord was partially successful in their claim and entitled to be reimbursed for their reasonable hearing expenses. In this case, they claim only the \$20.00 application fee, which is granted.
28. The tenant shall pay to the landlord \$571.28 as follows:

Unpaid Rent.....\$1950.00
Late Fees.....\$75.00
Hearing Expenses.....\$20.00
Less Security Deposit....(-\$1473.72)

Total.....\$571.28

13-January-2026
Date



Seren Cahill
Residential Tenancies Office