

IN THE MATTER between **AE**, Applicant, and **JL and TL and LT**, Respondents;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act");

AND IN THE MATTER of a hearing before **Janice Laycock**, Rental Officer, regarding a rental premises located within the **city of Yellowknife in the Northwest Territories**.

BETWEEN:

AE

Applicant/Landlord

-and-

JL and TL and LT

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: **October 30, 2024**

Place of the Hearing: **Yellowknife, Northwest Territories**

Appearances at Hearing: **PS and AS, TPM, representing the Applicant**
 TL, Respondent

Date of Decision: **November 1, 2024**

REASONS FOR DECISION

An application to a rental officer made by AE as the Applicant/Landlord against JL, TL, and LT as the Respondents/Tenants was filed by the Rental Office September 17, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was deemed served on the Respondents by email on September 22, 2024.

The Applicant's representative claimed the Respondents were responsible for repair of damages and cleaning required at the end of their tenancy. An order was sought for the Respondent to pay the costs to repair damages and cleaning.

A hearing was held on October 30, 2024 by three-way teleconference. PS and AS from TPM appeared representing the Applicant. Respondent, TL, appeared at the hearing. The other Respondents did not appear, nor did anyone appear on their behalf. As these Respondents were provided sufficient notice, the hearing proceeded as provided for under subsection 80(2) of the *Residential Tenancies Act* (the Act).

I reserved my decision at the hearing pending receipt of further information. That information was received at the Rental Office on October 31, 2024.

Tenancy agreement

The Applicant provided, as evidence, the written tenancy agreement for the term August 1, 2022 to July 31, 2023. At the hearing, the Applicant testified the agreement had been renewed and committed to provide a copy of the renewal document. This document was provided to the Rental Office on October 31, 2024, showing the tenancy had been renewed until July 31, 2024. Although the Applicant initially reported that the tenancy had been abandoned because the Respondents did not return the keys and left personal property in the rental unit, after further discussion, the parties agreed that the tenancy was terminated on August 31, 2024, by agreement.

I am satisfied a valid tenancy agreement was in place between the parties and the tenancy was terminated on August 31, 2024.

Tenant damages and cleaning

The Applicant claimed \$6,038.92 for repair of damages and cleaning at the end of the tenancy. They provided, as evidence, a video taken on September 1, 2024, documenting their walk through of the rental premises, invoices from Diamond Glass to replace and repair screens, a quote from CN Doors to replace the garage door opener, as well as an invoice from TE to remove debris from the rental unit and to carry out repairs required.

At the hearing, I asked if an entry and exit inspection was carried out. The Applicant testified that they had carried out the inspections and would provide the inspection reports. A copy of the entry and exit inspection reports were provided to the Rental Office after the hearing on October 30, 2024. I would note that it would have been helpful to have the inspection reports prior to the hearing.

The claim includes:

1. \$3,071.25 (with GST) - steam cleaning the carpet \$450 and move-out deep cleaning \$2,475. The invoice from "SimplyDaBest Carpet Cleaning and Janitorial Services" details the work done as part of the deep cleaning which involved the services of five cleaners working for 9 hours, at \$55/hour (rate for each cleaner). This claim is supported by the move-out video provided as evidence and is reasonable considering the condition of the rental unit after the Respondents vacated the rental unit. At the hearing, the Respondent acknowledged the unit was not clean when they vacated the rental unit.

I note that this claim is supported by the inspection reports. I find the costs reasonable and supported by the evidence and approve the full costs of \$3,071.25.

2. \$1,153.95 (with GST) - supported by invoice #154640 TEL:

- ▶ \$104.99 - to replace front door deadbolt match black colour;

At the hearing, I questioned if the deadbolt replacement was required as a result of damages by the Respondents, or was a maintenance issue related to wear and tear.

The Respondent testified that despite numerous requests they did not receive keys for the door, relying on the key pad to enter the unit and they always had issues with the lock. They stated they had to pull on the door to get the deadbolt to work. The Applicant pointed out that the Respondents had not reported this issue, but also acknowledged that most doors have some issues.

I reserved my decision at the hearing on the claim to replace the deadbolt. After further consideration, I deny their claim for \$104.99 to replace the front door deadbolt. Based on the testimony, I believe that the Respondents, after raising the issue with the keys and not getting any response, just made do with the condition of the entry locking system. As the Applicant stated most doors have some issues (with the locking hardware), it is my opinion the front door deadbolt system was not working properly at the beginning of the tenancy, and the need for replacement is most likely as a result of wear and tear and can be considered a maintenance cost.

- ▶ \$630 - to remove furniture and debris from the condo, repair hand railing in stairwell, patch holes and paint dining room, store items in shed in backyard;
- ▶ \$490 - to repair and patch hole in 4 walls, paint all walls, 10ft ceiling, 2 man crew;
- ▶ \$239 - paint, drywall supplies, roller sleeves, tray liners.

It is clear from the move-out video provided as evidence, numerous articles were left in the condo and backyard that needed to be dealt with. The Applicant testified that they had removed some items to storage, including furniture, but had not completed an inventory of abandoned property under subsection 64(3) of the Act. It was their assessment that the items removed were worthless. At the hearing, the Respondent confirmed this assessment. As the amount claimed of \$630 includes a number of items and is not broken down, I think it fair to attribute \$200 (or 4 hours at \$50/hour) of this amount to remove furniture and debris from condo and store items in backyard. This leaves a further \$430 that can be applied to patching and painting dining room and to repair railing.

Regarding the railing, the entry inspection report provided after the hearing, indicates the railing was damaged when the Respondents moved out of the rental premises. I will approve \$50 for repair of the railing, leaving a further \$380 for patching and painting, as well as \$490 to repair and patch hole in 4 walls, and \$239 for supplies totalling \$1,109 remaining on this part of the claim.

At the hearing, I asked when the unit had last been painted. This information was provided to the Rental Office on October 31, 2024 indicating the rental unit was painted in June or July of 2021. Based on Canadian sources for the useful life of building elements, painting of interior walls is every eight years.

According to the Landlord, this unit was last painted in the summer of 2021, three years ago, this means that in August of 2024, they could have expected to have a further 5 years of useful life from the interior painting.

The entry inspection report provided after the hearing states the unit had some damage to the walls and trim when the Respondents began their tenancy in August 2022. The report notes scratches, dents, tacks by window, misc. marks in the downstairs living room. The upstairs living room area, had marks scratches and paint marks and patches. The stairway/hall "up" had dents, marks, chips, paint marks, and the stairway/hall "down" had patch marks, and shift crack.

The walk out video and the exit inspection report support the need for repair of drywall and painting in the downstairs living room, but it is not clear how much of this patching and painting is as a result of the damages that existed in this area when the Respondents entered, or were during their tenancy. Typically, I would award full costs for patching and depreciate the costs for painting based on the useful remaining life of painting. However, considering the condition at the beginning of the tenancy, I think it fair to depreciate all of the costs and approve a total of \$693.15 calculated as follows:

$\$1,109 \text{ claimed} / 8 \text{ (years useful life)} = \$138.63 \times 5 \text{ (remaining years useful life)} = \$693.13.$

Revised amount approved for this invoice:

\$0 - replace deadbolt - denied \$104.99

\$50 - repair railing - approved

\$200 - move furniture and debris - approved

\$693.13 - patching and painting - depreciated based on useful life from \$1,109 to \$693.15.

\$943.13

\$ 47.15 GST

\$990.28

3. \$168.74 (with GST) - replace 1 screen 38 x 34 \$92.30 and repair screen 38 x 34 \$68.40 - provided invoice 6887849 Diamond Glass Ltd. At the hearing, I agreed that these costs seemed reasonable, however, I did not have the inspection report at the hearing. The exit inspection report notes the door screen in the downstairs living room very damaged, screen in living room ripped, screen in bedroom #2 and #3 torn. However, the entry inspection indicates the screens in the downstairs living room door, and the bedrooms were ripped or torn at the beginning of the tenancy. Only the window screen in the living room was in good condition at move-in and ripped at move-out. Based on this information, I approve \$68.40 to repair the ripped screen in the living room, with GST of \$3.42 the total approved is \$71.82.
4. \$1,153.95 (with GST) to replace the bathroom cabinet due to crack in the granite counter-top. The Applicant provided an estimate of the cost to purchase a similar cabinet locally totalling \$1,099.99. The inspection report provided after the hearing supports this claim.

At the hearing, the Respondent confirmed that the counter was broken while they were occupying the rental premises. I indicated that I would be depreciating the replacement value based on the useful life of the counter and cabinet. The Applicant reported after the hearing the cabinet with counter top was installed in 2020, making the unit four years old, and the Applicant could reasonably have expected another 16 years of use. The useful life of bathroom counter tops (granite) based on Canadian sources is 20 years. I approved depreciated replacement cost of \$924 calculated as follows:

$\$1,099.99 / 20 = \$55 \text{ year} \times 16 \text{ years remaining of useful life} = \$880 + \text{GST } \$44 = \$924.$

5. \$107.10 (includes GST) - replace garage door opener. Quote #27388 from CNdoors provided as evidence. Also consistent with the inspection report and the Respondent confirmed the door opener was not returned and they didn't know what happened to it. Approve full cost of \$107.10.

I find the following costs (including GST) reasonable and supported by evidence:

- \$3,071.25 - cleaning
- \$990.28 - remove items, repair railing, patch and paint (depreciated costs)
- \$71.82 - repair screen
- \$924.00 - replace bathroom cabinet - depreciated cost
- \$107.10 - replace garage door opener.

\$5,164.45 TOTAL APPROVED

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Other obligation - utilities

The Applicant has claimed \$1,286.56 to fill the fuel tank. Under Schedule A of the tenancy agreement, the fuel tank was full at the beginning of the tenancy and the Respondents were responsible for filling the tank at the end of their tenancy. According to Applicant's testimony, the fuel tank was not filled at the end of the tenancy. They provided a photo showing the tank was not full and a copy of invoice #652384 from Matonabee Petroleum Ltd. sent to the current tenants to fill the tank in early September. I believe the costs claimed are reasonable and supported by evidence and find the Respondent responsible for costs totalling \$1,286.56.

The Applicant also claimed \$1,094.90 in outstanding utilities owing by the Respondents to the City of Yellowknife for water. Under Schedule A of the tenancy agreement, the Respondents were also responsible for setting up an account for water and paying their account in full at the end of the lease.

At the hearing, I asked if the Landlord had paid this amount or if it was still outstanding by Respondents. The parties agreed that the amount was still outstanding by the Respondents, but the Applicant argued the Landlord would have to pay this amount if not paid by the new year, as the City of Yellowknife would transfer this expense to the owner. The Respondent committed to settle their account with the City of Yellowknife.

As the account has not been paid by the owner, and is between the City of Yellowknife and the Respondents, and the Respondent at the hearing committed to settle their bill, I denied this charge. I can not award costs that may come payable in the future.

Security deposit

According to the Applicant, in their move-out statement dated September 2, 2024, the Respondents' security deposit with interest was \$2,550.49. When this amount is applied against the repair of damages and cleaning totalling \$5,164.45, the amount owing that can be ordered is \$2,613.96.

Other

I would also point out that Schedule A of the tenancy agreement sections entitled "Fuel" and "Utilities" are inconsistent with the *Residential Tenancies Act*. Both sections state that if the amounts owing are not paid at the end of the tenancy, the security deposit can be used. Under subsection 18(4) of the Act, "A landlord may, in accordance with this section, retain all or a part of a security deposit, a pet security deposit or both for arrears of rent owing from a tenant to the landlord in respect of the rental premises, and for repairs of damage to the premises caused by the tenant or a person permitted on the premises by the tenant."

Although not specifically relevant to this application, and not an exhaustive list, I also saw inconsistencies between the Act and the tenancy agreement in Schedule A relating to the sections on Rent Payment, Move out Cleaning, Termination, Abandonment, Late charge, and Security Deposit.

Orders

An order will issue:

- requiring the Respondents to pay costs for repair of damages and cleaning in the amount of \$2,613.96 (p. 42(3)(e) and p. 45(4)(d)); and
- requiring the Respondents to pay costs for utilities owing totalling \$1,286.56 (p. 45(4)(d)).

Janice Laycock
Rental Officer