



**Order under Section 69 / 88.2 / 89
Residential Tenancies Act, 2006**

Citation: Pennfund Corp. v Stickel, 2023 ONLTB 80506

Date: 2023-12-14

File Number: LTB-L-063298-22

In the matter of: A, 1453 BENSON ST
INNISFIL ON L9S0C8

Between: Pennfund Corp. Landlord

And

Candace Marie Stickel Tenant

Pennfund Corp. (the 'Landlord') applied for an order to terminate the tenancy and evict Candace Marie Stickel (the 'Tenant') because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was heard by videoconference on November 14, 2023.

Only Alissa Debella and Antonino Debella who are the co-owners of Pennfund Corp. attended the hearing.

As of 9:39a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The Tenant was in possession of the rental unit on the date the application was filed.
2. The Tenant vacated the rental unit on October 31, 2022. As such the Landlord did not proceed on the eviction portion of their application and only proceeded on their monetary claims.
3. On a balance of probabilities, the Landlord has proven their claims for unpaid utilities and compensation for damage.
4. The total amount that the Tenant shall pay to the Landlord for unpaid utilities is \$76.83.
5. The total amount the Tenant shall pay the to Landlord for compensation for damages is \$6,025.62.
6. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Compensation for Unpaid Utilities

7. The Tenant failed to pay the electricity bill for October 2022 that they were required to pay under the terms of the tenancy agreement.
8. The Landlord has incurred reasonable out-of-pocket expenses of \$76.83 as a result of the Tenant's failure to pay electricity costs.

Compensation for Damages

9. I will address each of the Landlord's damages claims in turn.

Blinds

10. Alissa Debella ('A.D') testified that the blinds throughout the rental unit are missing parts and appear to have bite marks. Photos support the Landlord's testimony and show blinds with missing parts and what appear to be teeth marks (perhaps from a small animal). A.D testified that new blinds were installed a few months into the tenancy.
11. I find this damage to be wilfully or negligently caused by the Tenant. The missing parts and teeth marks are not consistent with the expected wear and tear that occurs over time.
12. The Landlord spent \$425.29 replacing the blinds. I find those costs to be reasonable.

Window Screen Mesh

13. A.D testified that multiple screens in the rental unit windows were shredded and destroyed. Photographs show screens with multiple holes.

14. I find this damage to be wilfully or negligently caused by the Tenant. The photos show numerous holes in the window meshing and the damage does not appear to be consistent with expected wear and tear.
15. The Landlord spent \$75.16 replacing the screens. I find those costs to be reasonable.

Carpet

16. A.D testified that the Landlord originally hired a professional cleaning company to clean the carpet on the rental unit stairs, but they could not remove all of the stains, so the carpet had to be replaced. Invoices from the Landlord's contractor support the Landlord's position that cleaning was not sufficient to remove the stains from the carpet. There is a note on the Landlord's cleaning invoice that says "due to extreme oversoiling the results were only satisfactory". Photographs of the carpet from 2020 show a cleaner and less stained carpet then when the Tenants vacated.
17. I find that the staining on the rental unit carpet is damage and that it was caused either wilfully or negligently by the Tenant. While it is expected that the carpets will need to be cleaned between tenancies, the testimony of A.D, the photos, and invoice from the Landlord's contractor support that the staining went beyond regular wear and tear and that the carpet had to be replace as cleaning would not resolve the problem.
18. The Landlord spent \$135.60 to initially try and clean the carpet and \$999.37 to replace the carpet. I find those costs to be reasonable.

Doorstops

19. A.D testified that many of the doorstops in the rental unit are missing and some are missing parts. A photograph shows a damaged doorstop.
20. I find that the missing and partially destroyed doorstops are damage that was caused negligently or wilfully by the Tenant. It is not clear why the Tenant would have removed the doorstops or how they could have become damaged with regular wear and tear.
21. The Landlord spent \$37.24 to buy new doorstops. I find that cost to be reasonable.

Crack in Floor

22. A.D testified that the Tenant caused a crack in the vinyl flooring. The Landlord had to remove and replace a few planks to fix the flooring. I find that the crack in the flooring is damage caused either negligently or wilfully by the Tenant. The Landlord spent \$282.50 to fix the floor. I found those costs to be reasonable.

Fridge Wheel

23. A.D testified that a wheel in the rental unit became crunched such that it had to be replaced. I do not find that the photographs nor the description of the problem gave sufficient information to establish that this was damage caused negligently or willfully. As such the claim for damaged related to the fridge wheel is dismissed.

Weatherstripping on Front and Garage Door

24. A.D testified that the weather stripping on the front door of the rental unit and garage door is cut up and shedding. Photographs supports that description. I find that the damage to the weather stripping was caused either willfully or negligently by the Tenant. One of the photographs show a big slice in part of the stripping and it is not clear how that could be caused by regular wear and tear. The Landlord spent \$154.91 to buy new weather stripping. I find that cost to be reasonable.

Dishwasher

25. A.D testified that the rental unit dishwasher was missing pieces, the racks were damaged, and it was not draining. Photographs support that description of the damage to dishwasher. I find that the damage was caused either negligently or willfully by the Tenant. Missing pieces and distorted dish racks are not consistent with regular wear and tear. The Landlord spent \$135.60 to try and service the dishwasher and then \$502.85 to replace it. I find those costs to be reasonable.

Painting

26. A.D testified that painters had to spend a lot more time than would normally be expected after the termination of a tenancy of this length because of the amount of damage to the rental unit surfaces. The Landlord seeks \$3,503.00 in painting costs.
27. I have reviewed all of the photographs submitted and I am not satisfied on a balance of probabilities that the damage was caused negligently or willfully. While there are scuff marks on the rental unit walls, doors, etc, and some stripping of paint there is insufficient evidence before me to find that this was done negligently or willfully. It is to be expected that rental units may require new paint between tenancies, and I am not satisfied that the marks that needed to be painted over were anything more than wear and tear. As such the claim for damages related to painting are dismissed.

Garage Keypad

28. A.D testified that when the Tenant returned possession to the Landlord the garage keypad was found to not be working. That the keypad stopped working does not alone satisfy me

that the Tenant damaged it willfully or negligently. As such the claim related to damage for the garage keypad is dismissed.

Landfill Charges

29. The Landlord seeks \$10.00 in landfill charges for the use of a landfill for items that the Tenant left behind in the rental unit. The Landlord claimed this amount as damage. This is not damage and as such this claim is dismissed.

Kitchen Cupboard

30. A.D testified that the kitchen cupboards were left with grease stains and other marks. A.D testified that the Landlord tried to clean the cupboards, it was not successful, and that she got a professional opinion who recommended that the cupboard be replaced. Photographs show heavy dark spots in the cupboards. I find that the damage to the rental unit cupboards was caused wilfully or negligently by the Tenant. That the damage cannot be cleaned off is not consistent with regular wear and tear. The Landlord spent \$960.50 to replace the cupboards. I find that cost to be reasonable.

Damage from a Water Leak

31. A.D testified that in September 2021 there was a water leak in the utility room. The Landlord believes that the water leak was caused by the Tenant as the floor drain was found filled with cat litter which expanded and caused a plumbing malfunction. A.D testified that the Tenant said that her cat had torn up a bag of cat litter the week of the incident. Additionally, after the cat litter was removed there has not been another leak.
32. A.D testified that the incident led to moisture being in the subflooring, water staining, and mould in the drywall.
33. Based upon the uncontested evidence of the Landlord I find that the water leak was caused negligently by the Tenant and that it resulted in damage to the rental unit.
34. The Landlord paid \$2,316.60 to fix the damage and this amount is supported by a series of invoices. I find those costs to be reasonable.

Labour

35. The Landlord seeks \$1,737.50 in labour costs for work performed by the Landlord or their employees to fix the rental unit damages and clean.
36. While I am satisfied that some of the work was done in relation to fixing damages caused by the Tenant either willfully or negligently, I am not satisfied that the costs requested are reliable or reasonable to award. This is because the work was done by the Landlord and their employees, and I have concerns about the reliability of the invoice for the work the

Landlord has created. I have insufficient evidence before me to find that the hourly rate charged is reasonable or reliable. Additionally, some of the work was done by the Landlords themselves and while I certainly recognize that their time is valuable it does not represent a cost that they spent. I also have concerns that some of the work included in the invoice may be for routine tasks that a landlord is expected to do between tenancies, like cleaning. For those reasons the Landlord's labour costs will not be awarded.

It is ordered that:

1. The Tenant shall pay to the Landlord \$76.83, which represents the reasonable out-of-pocket expenses the Landlord has incurred or will incur as a result of the unpaid utility costs.
2. The Tenant shall pay to the Landlord \$6,025.62 which represents the reasonable costs of repairing the damage and replacing the damaged property.
3. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
4. The total amount the Tenant shall pay the Landlord is \$6,288.45.
5. If the Tenant does not pay the Landlord the full amount owing on or before December 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 1, 2024 at 7.00% annually on the balance outstanding.

December 14, 2023

Date Issued

Amanda Kovats

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.