

Residential Tenancies Tribunal

Application 2024-0475-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 1:46 PM on 9 July 2024 and continued at 9:59 AM on 16 August 2024 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant", attended the hearing.
3. The respondent, [REDACTED], represented by [REDACTED], hereinafter referred to as "the landlord", attended the hearing.

Preliminary Matters

4. The tenant submitted an affidavit (LL#1) with her application stating the landlord had been served the notice of hearing by registered mail ([REDACTED]) on 25 June 2024. The landlord did not dispute service. In accordance the *Residential Tenancies Act*, 2018, this is considered good service.
5. The tenant had resided in the one-bedroom apartment between 1 November 2020 and 30 September 2023. There had been a written monthly rental agreement (LL#2) with rent in the amount of \$800.00 due on the 1st of each month. There was a security deposit collected prior to occupancy in the amount of \$600.00.
6. In a proceeding under the *Residential Tenancies Act*, 2018, 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.

Issues before the Tribunal

7. The tenant is seeking the following:
 - A refund of rent in the amount of \$1,750.00
 - Compensation for hearing expenses in the amount of \$20.00

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in Sections 46 and 47 of the *Residential Tenancies Act, 2018* (the *Act*).
9. Also relevant and referred to in this decision is *Policy 13-002 of the Residential Tenancies Program*.

Issue 1: Refund of Rent

Tenant Position

10. The tenant testified she was an occupant at the rental premises between 1 November 2020 and 30 September 2023 and was seeking refund of rent of \$1,750.00; representing an overpayment of \$50.00 per month for 35 months. She stated the monthly rent amount, due on the first of each month, was \$800.00 (LL#2); however, the Department of Children, Seniors and Social Development of Newfoundland and Labrador would directly pay the landlord \$850.00. The tenant also testified that she was issued a 6-month notice of rental increase on 21 August 2022 (LL#3) indicating rent would be increasing to \$950.00 as of 1 March 2023.
11. The tenant stated payment of her monthly rent was made directly to the landlord from the Department of Children, Seniors and Social Development and she was seeking the difference on the rental agreement during her tenancy of the rental premises.
12. The tenant testified she was informed by the Department of Children, Seniors and Social Development the overpayment, "was my money" and that "income support doesn't get involved in landlord tenant disputes".

Landlord Position

13. The landlord does not dispute that there has been an overpayment, nor is the amount of \$1,750.00 disputed. She further confirms a rental increase to \$950.00 effective 1 March 2023.
14. The landlord supplied evidence (LL#1) stating they were informed by the Department of Children, Seniors and Social Development of Newfoundland and Labrador through an email dated June 26, 2024, that 'best practice' is to have overpayments of rent returned to the Department. She testified the moneys should be returned to the provincial department for that organization to determine the disposition of the overpayment.

Analysis

15. The parties mutually agree that there has been an overpayment in the amount of \$1,750.00. They do dispute who should receive the refund of overpayment; however, that is a matter to be resolved between the tenant and the entity subsidizing her rent. The Residential Tenancies Act applies where the relationship of landlord and tenant

exists in respect of a residential premises. The applicant, [REDACTED] is the tenant of record.

Decision

16. The tenant's claim for overpayment succeeds, and the landlord shall refund the overpayment in the amount of \$1,750.00.

Issue 2: Hearing Expenses

17. The tenant was seeking \$20.00 hearing expenses. As her claim for reimbursement succeeds, her claim for hearing expense also succeeds.

Decision

18. The tenant's claim for hearing expenses of \$20.00 succeeds.

Summary of Decision

19. The landlord shall reimburse the tenant \$1,770.00.

17 October 2024
Date

[REDACTED]
Michael J. Reddy
Residential Tenancies Office