

Residential Tenancies Tribunal

Application 2024-0577-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was held on 6 August 2024 at 1:44 PM.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant", attended via teleconference.
3. The respondent, [REDACTED], hereinafter referred to as "the landlord", attended via teleconference.

Preliminary Matters

4. The tenant submitted an affidavit (T # 1) with the application stating the landlord was personally serviced the notice of the hearing on 16 July 2024 at 4:50 PM. In accordance with the *Residential Tenancies Act, 2018*, this is considered good service. The landlord did not dispute this service.
5. There is a written fixed term rental agreement which commenced on 1 October 2023 until 9 June 2024. Rent was set at \$975.00 per month, due on the first of each month. A security deposit in the amount of \$730.00 was collected on the tenancy on 19 August 2023 and still in the possession of the landlord.
6. The tenant amended her application and was seeking hearing expenses of \$70.00.
7. 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

8. The tenant is seeking the following:
 - A refund of the Security Deposit in the amount of \$730.00

- Compensation for inconvenience in the amount of \$466.69
- Hearing expenses in the amount of \$70.00

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 are the following sections of the *Act*: *Section 14: Security Deposit*, along with *Policy 10-001: Application for Security Deposit* and *Policy 12-001: Costs of the Residential Tenancies Program*.

Issue 1: Security Deposit

Tenant Position

11. Along with her application, the tenant provided a copy of the written fixed term rental agreement (T # 2), along with a payment receipt for the security deposit and first months' rent in the amount of \$1,705.00 (T # 3). She testified she was informed by the property manager of the rental premises that the fixed term arrangement would not be renewed on 1 October 2024. The tenant stated she had been issued a no cause termination to be out by 31 September 2024.
12. Along with her application, the tenant supplied a signed statement by the property manager (T # 4). The tenant testified she vacated the rental premises on 9 June 2024.

Landlord Position

13. The landlord testified the tenant is in a fixed term rental agreement until 1 October 2024. She did not dispute the tenant had paid a security deposit in the amount of \$730.00 on 19 August 2023. The landlord stated she hired a property manager for the rented premise who had issued the tenant a no cause notice with a request for the tenant to be out by 31 September 2024.
14. The landlord testified she was seeking to retain the security deposit in relation to rental arrears owing by the tenant for June 2024.

Analysis

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

Security Deposit

(10) Where a landlord believed he or her 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 direction under paragraph 10(b).

(12) A landlord who does not make an application in accordance with subsection 11 shall return the security deposit to the tenant.

16. Upon review of the affidavit of service supplied by the tenant (T # 1), this piece of evidence reveals the landlord was personally served the Application for Dispute Resolution on 16 July 2024. The landlord did not file an Application for Dispute Resolution to determine the disposition of the security deposit within the required 10-day timeline after receiving the tenant's application.
17. The Security Deposit, plus applicable interest at the rate prescribed by the *Security Deposit Interest Calculator* shall be applied against monies owed (\$730.00 + \$4.39) and reveals the landlord shall return the security deposit in the amount of \$734.39.

Decision

18. The landlord shall return the security deposit plus interest in the amount of **\$734.39** to the tenant.

Issue 2: Compensation for Inconveniences

Tenant Position

19. The tenant is seeking compensation for inconveniences of \$466.69 in relation to moving expenses. Along with her application, she supplied receipts (T # 5). The tenant testified she had to vacate the rental premises due to being issued a no cause notice to be out by 31 September 2024 and the landlord was impacting on her peaceful enjoyment of the rental premises.
20. The tenant testified she vacated the rental premises on 9 June 2024.

Landlord Position

21. The landlord did not dispute the tenant vacated the rental premises on 9 June 2024. She testified the tenant broke a fixed term rental agreement and it was the tenant's choice to vacate the rental premise prior to 31 September 2024.

Analysis

22. Applicants claiming compensation for inconvenience must provide evidence demonstrating that the inconvenience was a direct result of a violation of the *Act* or the rental agreement. Along with her application, the tenant supplied a copy of the termination notice issued to the property manager (T # 6) of her intentions to vacate the rental premises in June 2024. This piece of evidence meets the service requirements of Sections 34 and 35 of the *Act*. What was not provided in the hearing and with her

application was evidence to support the claim her peaceful enjoyment was interfered with as a result of the actions of the landlord.

23. In review of the evidence and testimony in its totality, I find on a balance of probabilities that the applicant has failed to meet the evidentiary onus, and this claim for compensation fails.

Decision

24. The tenant's claim for compensation for inconveniences fails.

Issue 3: Hearing Expenses

25. The tenant is seeking hearing expenses in the amount of \$70.00. Along with her application, the tenant supplied a copy of the hearing receipt (T # 7) in the amount of \$20.00, along with a server processing receipt (T # 8) in the amount of \$50.00.

Decision

26. As the tenant's claims are partially successful, the landlord shall pay the tenant \$70.00 for the hearing expenses.

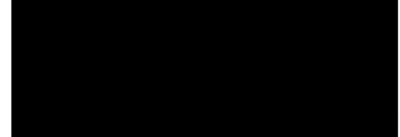
Summary of Decision

27. The tenant is entitled to a payment of **\$804.39** determined as follows:

- Refund of Security Deposit plus interest.....\$734.39
- Hearing Expenses.....\$70.00
- Total.....**\$804.39**

16 October 2024

Date



Michael Reddy, Adjudicator
Residential Tenancies Office