

Residential Tenancies Tribunal

Application 2024-0636-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 9:15 AM on 8 October 2024 via teleconference.
2. [REDACTED], hereinafter referred to as “the landlord”, attended the hearing.
3. [REDACTED] and [REDACTED], hereinafter referred to as “the tenants”, did not attend the hearing and were not represented.

Preliminary Matters

4. The landlord submitted an Affidavit of Service stating the tenants were served electronically [REDACTED] & [REDACTED] on 24 July 2024 at 3:55 PM (L#1). This is good service as defined by the *Residential Tenancies Act, 2018*.
5. This Tribunal’s policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date and, where the respondent fails to attend the hearing, Rule 29.11(1) states the hearing may proceed in the respondents’ absence so long as they have been properly served. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.
6. There was a verbal monthly rental agreement that commenced on 1 August 2023 until 30 August 2024. Rent was \$1,850.00 due on the 1st of each month. A security deposit of \$1,387.50 was paid prior to occupancy and is still in the landlord’s possession.
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 must establish that his/her account of events are more likely than not to have happened.

8. The landlord amended his application at the hearing and no longer seeking an Order for vacant possession. He was seeking rental arrears for August 2024 and \$20.00 hearing expenses.
9. The disposition of the security deposit will also be determined in this decision.

Issues before the Tribunal

10. The landlord is seeking:

- Rent arrears;
- Security deposit to be applied against payment owed; and,
- Hearing expenses

Legislation and Policy

11. The jurisdiction of the Director of Residential Tenancies is outlined in Sections 46 and 47 of the *Residential Tenancies Act, 2018 (the Act)*.
12. Also discussed and referred to in this decision are Sections 14, 18, 34 and 35 of *the Act*.

Issue 1: Rent Arrears

13. The landlord testified that the tenants took occupancy in August 2023, and there had been situations of non-payment of rent on the 1st of each month as required. On 14 May 2024, the landlord issued the tenant a Notice to Terminate Rental Agreement under Section 18, with a request for the tenants to vacate by 31 August 2024 (L#2). On 24 July 2024, the landlord issued the tenants electronically, a Notice to Terminate Rental Agreement under Section 19 of the Act, with a request for the tenants to be out by 4 August 2024 due to non-payment of rent for July 2024 (L#3). He stated on 5 August 2024, the tenants paid the rental arrears for July 2024 in full.
14. The landlord testified the tenants remained in the rental premises until 30 August 2024 and he was seeking rental arrears in the amount \$1,850.00 for the month of August 2024.

Analysis

15. Rent is required to be paid under a rental agreement by a tenant during the use or occupancy of a residential premises. I accept the landlords uncontested testimony that the tenants failed to pay rent for the month of August 2024, yet enjoyed the use and occupancy of the premises until they vacated on 30 August 2024.
16. The landlord claim for rental arrears succeeds in the amount of \$1,850.00.

Decision

17. The landlord's claim for rental arrears succeeds in the amount \$1,850.00.

Issue 2: Security Deposit

18. The landlord is owed monies and is therefore entitled to apply the security deposit against the sum owed. In this case, the initial security deposit was \$1,387.50.

19. Section 14(7) of the *Act*, says that a landlord shall credit interest to the tenants on the full amount or value of the security deposit, at the rate prescribed by regulations, during the time the security deposit is held by the landlord. The regulations prescribe a cumulative simple interest rate of 1% annual for the year of 2024. This results in interest of \$10.73, for a total of \$1,398.23.

Decision

20. The landlord can apply the security deposit with interest against the sum owed.

Issue 3: Hearing Expenses

21. The landlord paid a \$20.00 application fee and is seeking reimbursement. A copy of the receipt was provided (L#4).

Decision

22. The landlord claim from hearing expenses succeeds in the amount of \$20.00.

Summary of Decision

23. The tenants shall pay to the landlord **\$471.77** as follows:

- Rental Arrears.....\$1,850.00
- Hearing expenses.....\$20.00
- **Less: Security deposit + interest.....\$1,398.23**
- Total.....**\$471.77**

18 November 2024

Date

Michael Reddy, Adjudicator
Residential Tenancies Office