

## Residential Tenancies Tribunal

Application 2024-0736-NL

Pamela Pennell  
Adjudicator

---

### Introduction

1. Hearing was called at 1:48 p.m. on 26-September-2024.
2. The applicant, [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.

### Preliminary Matters

4. The tenant submitted an affidavit with her application stating that she had served the landlord with the notice of hearing electronically by email to; [REDACTED] on 14-September-2024 (TT#1). The landlord confirmed receipt of the document on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There was a term rental agreement that commenced on 1-October-2023. The tenant vacated the unit on 15-July-2024. Rent was \$1800.00 per month, due on the first of each month. A security deposit of \$1350.00 was paid on 9-September-2023 and is in the landlord’s possession.

### Issues before the Tribunal

6. The tenant is seeking:
  - Rent refunded \$232.26
  - Refund of security deposit plus interest \$1357.30
  - Hearing expenses \$20.00

### Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in Sections 46 and 47 of the *Residential Tenancies Act, 2018*.
8. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 14: Security deposit. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual*: Section 12-1: Recovery of Costs.

**Item # 1: Rent refunded \$232.26**Tenant's Position

9. The tenant testified that she entered into a rental agreement with the landlord to take possession of the unit on 1-October-2023 and she submitted a copy of the rental agreement in support of the claim (TT#2). The tenant testified that she did not receive a key to the unit until 4-October around 5-6:00pm and she is seeking rent to be refunded for the period of October 1-4 at a prorated amount of \$232.26.

Landlord's Position

10. The landlord did not dispute that the tenant had not been given the key to the unit on 1-October, however he stated that the tenant had access to the unit to move some of her belongings in.

**Analysis**

11. Based on the testimony of both parties, I accept that the tenant was not given the key to the unit on 1-October which was the commencement date of the tenancy. I asked the landlord when he provided the tenant with the key to the unit and he responded that it could have been the 3-October as the unit had not been cleaned prior to that date. As the landlord was uncertain as to when the tenant received the key, I will accept the tenant's testimony that it was 5:00pm on 4-October, and as such I will award the tenant a refund of rent for 3.5 days. A daily rate of rent is calculated as follows:  $\$1800 \times 12 \text{ mths} = \$21600$  per month / 366 days = \$59.02 per day. I find that the landlord shall refund rent to the tenant at a prorated amount of \$206.57.

**Decision**

12. The tenant's claim for *refund of rent* succeeds in the amount of \$206.57

**Issue # 2: Refund of security deposit plus interest \$1357.30**

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

***Security deposit***

14. (8) *A security deposit is not an asset of the landlord but is held by the landlord in trust and may be used, retained or disbursed only as provided in this section.*
- (9) *Not later than 10 days after the tenant vacates the residential premises, the landlord shall return the security deposit to the tenant unless the landlord has a claim for all or part of the security deposit.*
- (10) *Where a landlord believes he or she 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 director under paragraph (10)(b).*

14. The landlord did not refund the security deposit to the tenant within the 10-day timeframe as outlined in Section 14 above. The landlord confirmed that the security deposit was paid on 9- Septembe-2023 and is still in his possession. As the security deposit is not an asset of the landlord, I find that the landlord shall refund the security deposit plus interest to the tenant.
15. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to a tenant(s) for the entire period that the landlord has had the security deposit. The interest is calculated as simple interest and is not compounded. The annual interest for 2023 was 0% and is currently 1% for 2024.

**Decision**

16. The tenant's claim for *refund of security deposit* plus interest succeeds.

**Issue # 3: Hearing expenses \$20.00**

17. The tenant paid an application fee of \$20.00 to *Residential Tenancies* and is seeking to be reimbursed for the cost. The tenant submitted a copy of the receipt to support the claim (TT#3). In accordance with Section 12-1 of the *Residential Tenancies Policy*, claimable costs may include the filing fee. As the tenant's claim for losses has been successful, I find that the landlord is responsible for the hearing expenses.

**Decision**

18. The tenant's claim for *hearing expenses* succeeds in the amount of \$20.00.

**Summary of Decision**

19. The landlord shall pay the tenant \$1566.53 as follows:

Rent refunded.....	\$206.57
Refund of security deposit .....	1350.00
Interest .....	9.96
Total .....	<u>\$1566.53</u>

October 8, 2024

Date



Pamela Pennell, Adjudicator  
Residential Tenancies Office