

Residential Tenancies Tribunal

Application 2024-1180-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 8-April-2025 at 9:15 am.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as the landlords, were represented at the hearing by their counsel [REDACTED], who attended via teleconference. [REDACTED] also attended via teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as the tenants, did not attend.

Preliminary Matters

4. The tenants were not present or represented at the hearing and I was unable to reach them by telephone at the start of the hearing. 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 that the hearing may proceed in the respondent's absence so long as they have been properly served. The landlords submitted an affidavit (LL#1) with their application stating that they had served the tenant electronically on 14-January-2025 at approximately 4:33 pm with notice of the hearing to take place on 30-January-2025. Proof of service was also provided. On that date the tenant [REDACTED] attended and advised she had attempted to file a counterclaim she wished to have heard at the same time, and asked for a postponement. Counsel for the applicant consented to the postponement and the matter was subsequently rescheduled to 8-April-2025. The landlords provided another affidavit of service (LL#2) stating they served the tenants notice of this hearing electronically on 19-March-2025 at approximately 10:57 am along with proof of service. As of the time of writing, the tenants never finished their counterclaim application. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.

Issues before the Tribunal

5. Should the landlord's claim for unpaid rent succeed?
6. Should the landlord's claim for other compensation succeed?
7. What is the proper disposition of the security deposit?

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*).

Issue 1: Unpaid Rent

9. The landlords claim \$9200.00 in unpaid rent, which represents the entire monthly rent of \$2300.00/month for the months of September 2024 to December-2024 inclusive. They testified they received no rent for any of these months. A rental ledger was provided in support of this (LL#3). They testified that the tenants moved out on or about 3-December-2024. A previous pair of applications between the landlord and tenant, 2024-0703-NL and 2024-0711-NL, was resolved via a mediated agreement in which the tenants agreed to vacate the property on that date.
10. The landlord cannot successfully claim rent for days the tenants did not and were not entitled to remain at the premises unless they demonstrate that the tenants left the premises in an unrentable state. They did not do so in this case, so a daily rate must be calculated. The correct formula for determining a daily rate is found by multiplying the monthly rent by the 12 months and dividing by the 365 days of the year. In this case, the daily rate is $\$2300.00/\text{month} * (12 \text{ months} / 365 \text{ days}) = \sim \$75.62/\text{day}$. The total rent due for December is therefore \$226.85, and the total rent owing is \$7216.85.
11. The landlords' claim for unpaid rent succeeds in the amount of \$7216.85.

Issue 2: Other Compensation

12. The landlords also seek \$959.91, which represents the cost of process servers whose services were employed for the previous hearing referenced above, 2024-0703-NL and 2024-0711-NL. Counsel advised that a mediated agreement was arrived at. The evidence before me suggests that the tenants abided by the terms of this agreement.
13. Upon consideration of this issue, I conclude that it would be inappropriate to award these expenses. The mediated agreement represents a final settlement between the parties of all matters concerning the applications 2024-0703-NL and 2024-0711-NL, including the costs of bringing the proceedings. Reopening the issue may lead to parties in the future being less willing to mediate, which would be contrary to the interest of speedy and effective resolution of disputes.
14. The landlords' claim for other compensation fails.

Issue 3: Security Deposit

15. The landlords are owed moneys and may therefore apply the security deposit to the sum owed. In the present case, the security deposit was \$1725 and was received in full on 17-June-2024.
16. S. 14(7) of the *Act* states that where a landlord shall credit interest to the tenant on the full amount or value of the security deposit, at the rate prescribed by the regulations, during the time the security deposit is held by the landlord. The regulations prescribe a simple cumulative interest rate of 1% annual. Calculated to the date of the hearing, the interest owing is \$14.01.

Decision

17. The landlords' claim for unpaid rent succeeds in the amount of \$7216.85.
18. The landlords' claim for other compensation fails.
19. The landlords were successful in their application and therefore may seek to be reimbursed for their reasonable hearing expenses. They seek the \$20.00 application fee, which is granted.
20. The landlords may apply the security deposit and interest, valued at \$1739.01, against moneys owed.

Summary of Decision

21. The tenants shall pay to the landlords \$ as follows:

Unpaid Rent.....	\$7216.85
Hearing Expenses.....	\$20.00
Less Security Deposit...\$	(1739.01)
Total.....	\$5497.84

29-May-2025

Date

Seren Cahill
Residential Tenancies Office