

Residential Tenancies Tribunal

Application 2025-0173-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 1:46 p.m. on 27-March-2025.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant" did not attend.

Preliminary Matters

4. Before the beginning of the hearing, the tenant acknowledged that she would not be attending and agreed that the hearing would proceed in her absence. 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 landlord submitted an affidavit with their application stating that they have served the tenant with the notice of the hearing electronically via email to [REDACTED] on 10-March-2025 (LL#1). The landlord submitted proof of sent email and proof that this email address was previously used for communication with the tenant. In accordance with the *Residential Tenancies Act, 2018* this is good service. 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.
5. There was a written fixed term rental agreement that commenced on 1-November-2024 with the ending date of 31-October-2025. Rent was \$2400.00 per month due on the first of each month. A security deposit of \$1800.00 was collected on 1-November-2024 and is still in landlord's possession.
6. The landlord's representative amended their application to include hearing expenses of \$20.00.

Issues before the Tribunal

7. The landlord is seeking:

- Rent paid and late fees \$3553.06;
- Hearing expenses \$20.00;
- Security deposit of \$1800.00 to be applied against any monies owed.

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*.
9. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 14: Security deposit.

Issue # 1: Rent paid \$3553.06

Relevant Submission

10. The landlord's representative testified that rent is outstanding in the amount of \$3553.06 and submitted a copy of rental ledger to support their claim, see below:

Transaction Date	Transaction No.	Transaction Type	Amount	Balance	Invoice No.	Amount Due	✓
01/01/2025	934	Invoice	2,457.50				
01/01/2025	606	Payment	-0.94				
01/27/2025	634	Payment	-111.00				
02/02/2025	636	Payment	-800.00				
02/05/2025	660	Payment	-300.00				
02/06/2025	662	Payment	-150.00				
				1,095.56	934	1,095.56	
02/01/2025	970	Invoice		2,457.50	970	2,457.50	

Landlord's Position

11. The landlord's representative stated that rent has not been paid in full and in time since the beginning of the tenancy. According to the landlord's representative, they issued three termination notices to the tenant due to the non-payment of rent since November-2024, and the tenant vacated on 23-February-2025 as was requested in last termination notice. The landlord is seeking rent to be paid in full.

Analysis

12. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid under a rental agreement by a tenant during the use or occupancy of a residential premises.
13. I accept the landlords' representative's testimony, that the rent was in arrears. I accept that January and February rent was paid partially. The landlord is seeking full rent for February, however, as the landlord's representative stated that the move-out date in the latest termination notice was 23-February, I find that the tenant complied with the notice and vacated on the stated date. Therefore, I find that the tenant is responsible for rent up to and including 23-February. For these reasons, the rental ledger is amended (see below) to reflect daily rate for February. I find that the tenant is responsible for outstanding rent in the amount of \$2910.26.

Rental Ledger 2025-0173-NL			
Date	Action	Amount	Total
December 31, 2024		Balance	\$57.50
January 1, 2025		Rent due	\$2,400.00
January 1, 2025	Payment	-\$0.94	\$2,456.56
January 27, 2025	Payment	-\$111.00	\$2,345.56
February 1-23, 2025		Rent due	\$1,814.70
February 2, 2025	Payment	-\$800.00	\$3,360.26
February 5, 2025	Payment	-\$300.00	\$3,060.26
February 6, 2025	Payment	-\$150.00	\$2,910.26
			\$2,910.26

Daily rate: \$2400 x 12 mths = \$28800.00
\$28800 / 365 days = \$78.90 per day

Decision

14. The landlord's claim for rent succeeds in the amount of \$2910.26.

Issue # 2: Hearing expenses \$20.00

Relevant Submission

15. The landlord paid \$20.00 for the application fee and is seeking reimbursement. The landlord submitted a copy of the receipt to support their claim (LL#2).

Analysis

16. Section 12-1 of the *Residential Tenancies Policy* states that in general, claimable costs may include the filing fee. As the landlords' claim for losses has been successful as per paragraph 14, the tenant shall pay the hearing expenses.

Decision

17. The landlords' claim for hearing expenses succeeds in the amount of \$20.00.

Issue # 3: Security deposit to be applied against any monies owed \$1800.00

Analysis

18. 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).

19. The landlord's claim for losses has been successful as per paragraph 14 and 17 and as such, the security deposit shall be applied against monies owed. Pursuant to the *Residential Tenancies Act, 2018* the landlords must pay interest on a security deposit to the tenants for the entire period that the landlords have had the security deposit. The interest is calculated as simple interest and is not compounded. The annual interest is 1% for 2024-2025.

Decision

20. The landlord's claim for Security deposit to be applied against monies owed succeeds.

Summary of Decision

21. The tenant shall pay to the landlord \$1122.97 as follows:

Rent	\$2910.26
Hearing expenses.....	\$20.00
Less Security deposit	\$1807.29
Total.....	<u>\$1122.97</u>

March 8, 2025

Date

Oksana Tkachuk, Adjudicator
Residential Tenancies Office