

## Residential Tenancies Tribunal

Application 2025-0213-NL

Oksana Tkachuk  
Adjudicator

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### Introduction

1. Hearing was called at 9:00 a.m. on 15-April-2025.
2. The applicant, [REDACTED] hereinafter referred to as “the landlord” represented by [REDACTED], attended via teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the tenant”, attended via teleconference.

### Preliminary Matters

4. The landlord submitted an affidavit with their application stating that they had served the tenant with the notice of hearing via email to [REDACTED], on 19-March-2025 (LL#1). The tenant confirmed receiving the notice of the hearing on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service, I proceeded with the hearing.
5. There was a written fixed term rental agreement for one year which commenced on 1-October-2021 and transferred into month-to-month rental agreement. Rent is \$1300.00 per month and due on the first of each month. A security deposit of \$975.00 was collected on 15-September-2021 and is in landlord’s possession.
6. The landlord amended the application to decrease rent paid from \$2337.00 as per application to \$1637.00.00 including the month of April. The security deposit will be applied against any monies owed.

### Issues before the Tribunal

7. The landlord is seeking:
  - An Order for Vacant Possession of the rented premises;
  - Rent paid \$1637.00;

### 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, Section 19: Notice where failure to pay rent and the following section of the *Residential Tenancies Policy*: Section 7-1: Termination by more than 1 notice.

### **Issue #1: Vacant Possession of the Rented Premises**

#### Relevant Submission

10. The landlord submitted six copies of termination notices (LL#2) issued to the tenant under Section 19: Notice where failure to pay rent on following dates:
- 10-March-2025 with a termination date of 21-March-2025;
  - 11-February-2025 with a termination date of 22-February-2025;
  - 9-January-2025 with a termination date of 20-January-2025;
  - 9-December-2024 with a termination date of 20-December-2024;
  - 8-October-2024 with a termination date of 19-October-2024;
  - 8-May-2024 with a termination date of 19-May-2024.

#### Landlord's Position

11. The landlord's representative stated that the rent was in arrears for a long period of time since the tenant did not pay rent in full, which led them to issuing multiple termination notices within 12 months. The landlord's representative stated that notices were served electronically on the days they were issued.

#### Tenant's Position

12. The tenant did not dispute receiving the termination notices, neither did she dispute the rent arrears.

### **Analysis**

13. Section 7-1 of the Policy "Termination by more than 1 notice" states: "*If a termination notice is already in place and a second notice is issued by the same person whereby the termination date is later than that specified in the first notice, then the person issuing the second notice has thereby indicated that they are intending the tenancy to be extended to the date set out in the second notice. The party receiving this second notice is no longer required to abide by the termination date set out in the first notice and the termination date in the second notice is the date that the tenant is required to vacate. The person who served the 2 notices cannot have the first notice enforced*".
14. The landlord submitted six termination notices under the section 19 of the *Act*. In accordance with Section 7-1 of the *Policy*, as outlined above, the termination notice issued on 10-March-2025 with the move out date of 21-March-2025 will be analyzed for the purpose of this decision.
15. The notice was served under Section 19 of the *Residential Tenancies Act, 2018*, which states:

#### ***Notice where failure to pay rent***

- 19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),***

(b) where the residential premises is

- i. rented from **month to month**,
- ii. rented for a fixed term, or
- iii. a site for a mobile home, and

the amount of rent payable by a tenant is **overdue for 5 days or more**, the landlord may give the tenant notice that the rental agreement is terminated and that the tenant is required to vacate the residential premises on a specified date not less than 10 days after the notice is served on the tenant.

(4) In addition to the requirements under section 34, a notice under this section shall

- a. be signed by the landlord;
- b. state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and
- c. be served in accordance with section 35.

16. Based on tenant's and landlord's representative's testimony, I accept that the tenant did not pay rent for the month of March and on 10-March when the termination notice was issued, the balance owed by the tenant was \$2337.00. I accept the testimonies of both parties, that there were no payments made by the tenant before termination date of 21-March-2025.

17. Accordingly, I accept both the landlord's representative's and the tenant's testimonies that the termination notice was delivered in compliance with the legislative requirements and received by the tenants on 10-March. In accordance with Section 19 of the *Act*, the termination notice submitted by the landlord provided the tenant with not less than 10 days from the date the notice was served to vacate the premises. Therefore, the termination notice issued on 10-March-2025 meets the requirements of the *Act* and is a valid notice.

## Decision

18. The tenant should have vacated the property by 21-March-2025.

## Issue # 2: Rent paid \$1637.00

### Landlord's Position

19. The landlord testified that rent is outstanding in the amount of \$1637.00 including the month of April. The landlord stated that rent has not been paid in full and on time since August-2024. The landlord is seeking rent to be paid in full. The landlord submitted a rental ledger to support their claim, as below:

12/1/2024	Rent Due			\$1,300.00	\$1,300.00
12/9/2024	Letter - Eviction				\$1,300.00
12/24/2024	668642 EMT Tenant Payment				(\$800.00) \$500.00
1/1/2025	Rent Due			\$1,300.00	\$1,800.00
1/3/2025	669323 EMT Tenant Payment				(\$563.00) \$1,237.00
1/9/2025	Letter - Eviction				\$1,237.00
1/17/2025	G1AA/2025 EMT Tenant Payment				(\$900.00) \$337.00
2/1/2025	Rent Due			\$1,300.00	\$1,637.00
2/11/2025	Letter - Eviction				\$1,637.00
2/25/2025	614736 EMT Tenant Payment				(\$600.00) \$1,037.00
3/1/2025	Rent Due			\$1,300.00	\$2,337.00
4/1/2025	Rent Due			\$1,300.00	\$3,637.00

## Tenant's Position

20. The tenant stated that she made payment of \$2000.00 before the hearing started. The tenant explained that she cannot pay rent in full and is actively looking for a second job.

## **Analysis**

21. 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.
22. I accept the landlord's and tenant's testimony, that the rent was in arrears and amount seeking by the landlord reflects last payment made by the tenant on 15-April.
23. Payment for the month of April is amended to show a daily rate for that month as this tribunal does not consider future rent. I find that the tenant is responsible for outstanding rent in the amount of \$977.95 until 15-April-2025. See amended ledger below:

Rental Ledger 2025-0213-NL			
Date	Action	Amount	Total
November 30, 2024	Balance		\$0.00
December 1, 2024	Rent due	\$1,300.00	\$1,300.00
December 24, 2024	Payment	-\$800.00	\$500.00
January 1, 2025	Rent due	\$1,300.00	\$1,800.00
January 3, 2025	Payment	-\$563.00	\$1,237.00
January 17, 2025	Payment	-\$900.00	\$337.00
February 1, 2025	Rent due	\$1,300.00	\$1,637.00
February 25, 2025	Payment	-\$600.00	\$1,037.00
March 1, 2025	Rent due	\$1,300.00	\$2,337.00
April 1-15, 2025	Rent due	\$640.95	\$2,977.95
April 15, 2025	Payment	-\$2,000.00	\$977.95
			\$977.95

Daily rate:  $\$1300.00 \times 12 \text{ mths} = \$15600.00$   
 $\$15600.00 / 365 \text{ days} = \$42.73 \text{ per day}$

24. The tenant shall pay a daily rate of \$42.73 per day as calculate above, commencing on 16-April-2025, until such time as the landlord regains possession of the unit.

## **Decision**

25. The landlord's claim for rent succeeds in the amount of \$977.95.

## **Issue #3: Security deposit applied against monies owed \$975.00.**

## **Analysis**

26. 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).

27. The landlord's claim for losses has been successful as per paragraph 18 and 25 and as such, the security deposit shall be applied against monies owed. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to the tenant for the entire period that the landlord has had the security deposit. The interest is calculated as simple interest and is not compounded. The interest was 0% for 2021-2023 and the annual interest is 1% for 2024-2025.

### Decision

28. Security deposit plus interest in the amount of \$987.58 to be applied against monies owed.

### Summary of Decision

29. The tenant shall pay to the landlord \$0.00 as follows:

Rent .....	\$977.95
Less security deposit plus interest..	\$987.58
Total.....	<u>\$0.00</u>

30. The tenants shall vacate the property immediately.

31. The tenant shall pay a daily rate of \$42.73 per day, commencing on 16-April-2025, until such time as the landlord regains possession of the unit.

32. The tenant shall pay to the landlord any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.

33. The landlord will be awarded an Order of Possession.

April 15, 2025

Date

Oksana Tkachuk, Adjudicator  
Residential Tenancies Office