

Residential Tenancies Tribunal

Application 2025-0219-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 2:00 p.m. on 17-April-2025.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord" represented by [REDACTED], who attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant" did not attend.

Preliminary Matters

4. The tenant was 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 he/she has been properly served.
5. The landlord submitted an affidavit with his application stating that they had served the tenant with the notice of the hearing via prepaid registered mail, tracking number [REDACTED], on 25-March-2025 (LL#1). 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.
6. There was a written month-to-month rental agreement which commenced on 17-November-2017. The landlords took possession of the unit in June-2021. Rent is \$928.00 per month due on 1st of each month. A security deposit of \$637.50 was collected in the beginning of the tenancy and is still in landlord's possession.
7. The landlord amended their application to increase the amount of rent from \$138.00 as per application to \$1091.00 and to include hearing expenses of \$38.12. The disposition of the Security Deposit will be dealt in this decision.

Issues before the Tribunal

8. The landlord is seeking:
 - Vacant Possession of the Rented Premises;
 - Rent paid and late fees \$1091.00;
 - Hearing expenses \$38.12.

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.

10. 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 2-4; Deposits, Payments and Fees.

Issue #1: Vacant Possession of the Rented Premises

Relevant Submission

11. The landlord submitted a copy of termination notice (LL#2) issued to the tenant under Section 19: Notice where failure to pay rent on 13-March-2025 with a termination date of 24-March-2025.

Landlord's Position

12. The landlord's representative stated that the rent was in arrears since March-2025. The landlord's representative stated that notice was served via posting it on the door on 13-March-2025. The landlord is seeking vacant possession of the rented premises.

Analysis

13. 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.

14. I accept the landlord's representative's testimony, as the tenant was not present or represented during the hearing to provide their own testimony. I accept that the tenant did not pay rent for the month of March, and that there were no payments made by the tenant before termination date of 24-March-2025.

15. Accordingly, I accept the landlord's representative's testimony that the termination notice was delivered in compliance with the legislative requirements. 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 13-March-2025 meets the requirements of the Act and is a valid notice.

Decision

16. The tenant should have vacated the property by 24-March-2025.

Issue # 2: Rent paid and late fees \$1091.00

Landlord's Position

17. The landlord's representative testified that rent is outstanding in the amount of \$1091.00 including late fees in the amount of \$75.00. The landlord's representative stated that there were no payments made by the tenant since March. The landlord submitted rental leger to support their claim, see below:

1/1/2025	1/2025	C-7476233	rentent - Residential Rent	928.00	0.00	0.00	928.00	0.00	-820.00
1/1/2025	1/2025	R-6777060	chk# :ACH-2150200 - Pre-Authorized Payment	0.00	0.00	0.00	0.00	20.00	-840.00
2/1/2025	2/2025	R-6812735	chk# :ACH-2171992 - Pre-Authorized Payment NSFed by ctrl# 6838482 NSF	0.00	0.00	0.00	0.00	20.00	-860.00
2/7/2025	2/2025	C-7549885	nsf - Returned check charge	25.00	0.00	0.00	25.00	0.00	-835.00
2/7/2025	2/2025	R-6838482	chk# :ACH-2171992 - NSF receipt Ctrl# 6812735 NSF	0.00	0.00	0.00	0.00	-20.00	-815.00
3/1/2025	3/2025	C-7557674	rentent - Residential Rent	928.00	0.00	0.00	928.00	0.00	113.00
3/1/2025	3/2025	R-6846599	chk# :ACH-2193449 - Pre-Authorized Payment NSFed by ctrl# 6871969 NSF	0.00	0.00	0.00	0.00	20.00	93.00
3/6/2025	3/2025	C-7589587	nsf - Returned check charge	25.00	0.00	0.00	25.00	0.00	118.00
3/6/2025	3/2025	R-6871969	chk# :ACH-2193449 - NSF receipt Ctrl# 6846599 NSF	0.00	0.00	0.00	0.00	-20.00	138.00
4/1/2025	4/2025	C-7597587	rentent - Residential Rent	928.00	0.00	0.00	928.00	0.00	1,066.00
4/1/2025	4/2025	R-6891765	chk# :ACH-2226619 - Pre-Authorized Payment NSFed by ctrl# 6905517 NSF	0.00	0.00	0.00	0.00	20.00	1,046.00
4/4/2025	4/2025	C-7629825	nsf - Returned check charge	25.00	0.00	0.00	25.00	0.00	1,071.00
4/4/2025	4/2025	R-6905517	chk# :ACH-2226619 - NSF receipt Ctrl# 6891765 NSF	0.00	0.00	0.00	0.00	-20.00	1,091.00

18. *Residential Tenancies Policy 2-4; Deposits, Payments and Fees* states:

Late payment fee:

When rent is not paid on time, a landlord may charge a late fee of \$5.00 for the first day rent is in arrears and \$2.00 for each additional day that the rent remains in arrears in any consecutive number of rental periods up to a maximum of \$75.00.

19. 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.

20. I accept the landlord's testimony that the rent was not paid since February-2025, as the tenant was not present or represented during the hearing to provide their own testimony.

Therefore, with regards to the late fees and in accordance with Section 2-4 of the *Policy* as stated above, I find that that the late fee of \$75.00 is allowed. Payment for the April is calculated on a prorated basis, as this Tribunal does not consider future rent. See amended ledger below:

Amended Rental Ledger 2025-0219-NL			
Date	Action	Amount	Total
February 28, 2025	balance		-\$840.00
March 1, 2025	Rent due	\$928.00	\$88.00
April 1-17, 2025	Rend due	\$518.50	\$606.50
	Late fees	\$75.00	\$681.50

Daily rate: \$928.00 x 12 mths = \$11136.00
\$11136.00/ 365 days = \$30.50 per day

21. The tenant shall pay a daily rate of \$30.50 until the landlord regains the possession of the unit.

Decision

22. The landlord's claim for rent and late fees succeeds in the amount of \$681.50.

Issue # 3: Hearing expenses \$38.12

Analysis

23. Section 12-1 of the *Residential Tenancies Policy* states that in general, claimable costs may include the filing fee and costs incurred in serving the other party with the application. The landlord paid \$20.00 for the application fee and \$18.12 for prepaid registered mail (LL#3) and is seeking reimbursement. As the landlord's claim has been successful, the tenant shall pay the hearing expenses.

Decision

24. The landlord's claim for hearing expenses succeeds in the amount of \$38.12.

Issue # 4: Security deposit to be applied against any monies owed \$637.50

Analysis

25. 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).

26. The landlord's claim for losses has been successful as per paragraphs 16, 22 and 24 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 a 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 in 2017-2023 was 0%, the annual interest in 2024-2025 is 1%.

Decision

27. Security deposit plus interest to be applied against monies owed succeeds.

Summary of Decision

28. The tenant shall pay the landlord \$73.86 as follows:

Rent and late fees	\$681.50
Hearing expenses	\$38.12
Less Security Deposit & interest	\$645.76
 Total	\$73.86

29. The tenant shall pay a daily rate of rent beginning 18-April-2025 of \$30.50, until such time as the landlord regains possession of the property.

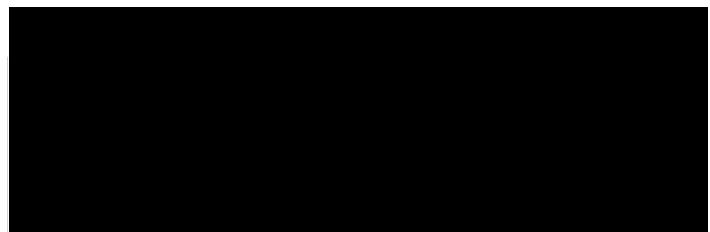
30. The tenant shall vacate the property immediately.

31. 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.

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

April 25, 2025

Date



Oksana Tkachuk, Adjudicator
Residential Tenancies Office