

Residential Tenancies Tribunal

Application 2025-0224-NL & 2025-0308-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:02 a.m. on 7-May-2025.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondents and counter applicants, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants” attended by teleconference.

Preliminary Matters

4. The landlord submitted 2 affidavits with his application stating that he had served the tenants with the notice of hearing personally at [REDACTED] on 31-March-2025 (LL#1). The tenants confirmed receipt of the documents on that date and countered the application. The tenants submitted an affidavit with their application stating that they had served the landlord with the notice of hearing electronically to: [REDACTED] on 24-April-2025 (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 written month-to-month rental agreement which commenced on 1-October-2024. The tenants vacated the unit on 28-February-2025. Rent was \$900.00 per month, due on the first day of each month. A security deposit of \$600.00 was paid on 23-September-2024 and is in the landlord’s possession.

Issues before the Tribunal

6. The landlord is seeking:
 - Validity of termination notice determined
 - Rent paid \$900.00
 - Utilities paid \$149.89
 - Hearing expenses \$20.00
 - Security deposit applied against monies owed \$600.00

7. The tenants are seeking:
 - Refund of security deposit \$600.000

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 is the following section of the *Residential Tenancies Act, 2018*: Section 10: Statutory conditions, Section 14: Security deposit, Section 21: Notice where premises are uninhabitable and Section 34: Requirements of notices. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual*; Section 12-1: Costs.

Issue # 1: Validity of Termination Notice

Landlord's Position

10. The landlord testified that the tenants vacated the unit on 28-February-2025 without a proper written notice and he is questioning the validity of the tenant's verbal notice. The landlord also testified that the tenants advised him that they were leaving because the unit was uninhabitable due to a mold issue, which the landlord disputes to be true.

Tenant's Position

11. The tenants did not dispute that they failed to provide a written notice to the landlord, however they testified that the unit was uninhabitable and stated that they had no choice but to vacate as soon as possible. The tenants testified that they gave the landlord a verbal notice with cause under Section 21 of the *Residential Tenancies Act, 2018*; Premises Uninhabitable on 17-February-2025 to vacate as soon as possible due to a mold infestation problem within the unit which had caused then both severe medical problems. The tenants stated that they sat down with the landlord and discussed both the mold infestation issue and advised the landlord that their physician had strongly recommended that they relocate immediately. The landlords also testified that they sent a text message to the landlord the following day, on 18-February advising that they found a new place of residence for 1-March-2025.

Analysis

12. Section 10(1) of the *Residential Tenancies Act, 2018* states: statutory conditions.

Statutory conditions

10. (1) *Notwithstanding an agreement, declaration, waiver or statement to the contrary, where the relationship of landlord and tenant exists, there shall be considered to be an agreement between the landlord and tenant that the following statutory conditions governing the residential premises apply:*

1. *Obligation of the landlord –*

- a) *The landlord shall maintain the residential premises in a good state of repair and fit for habitation during the tenancy and shall comply with a law respecting health, safety or housing.*

- b) *Paragraph (a) applies regardless of whether, when the landlord and tenant entered into the rental agreement, the tenant had knowledge of a state of non-repair, unfitness for habitation or contravention of a law respecting health, safety or housing in the residential premises.*

13. Section 21 of the *Residential Tenancies Act, 2018* states:

Notice where premises uninhabitable

21.(1) Notwithstanding subsection 18(1) and paragraph 18(3)(b), where a landlord contravenes statutory condition 1 set out in subsection 10(1), the tenant may give the landlord notice that the rental agreement is terminated and that the tenant intends to vacate the residential premises effective immediately.

14. Section 34 of the *Residential Tenancies Act, 2018*; Requirements for Notices states:

Requirements for Notices

34. A notice under this Act shall

- a) be in writing in the form prescribed by the Minister;*
- b) contain the name and address of the recipient;*
- c) identify the residential premises for which the notice is given; and*
- d) state the section of this Act under which the notice is given.*

15. I accept the tenant's testimony that they made the landlord aware that they would be vacating the unit as soon as possible under Sections 10 and 21 of the *Act* as stated above. I accept that there was a serious mold infestation problem in the unit, and I accept that the tenants did the proper thing by relocating as strongly recommended by their medical physician. However, Section 34 of the *Act* has to be taken into consideration when dealing with termination notices and in accordance with that section as stated above, I find that the tenants failed to provide the notice in writing as prescribed by the minister. For this reason, I find that the verbal termination notice given to the landlord on 17-February-2025 was not a valid notice.

Decision

16. The verbal termination notice given on 17-February-2025 was not a valid notice.

Issue # 2: Rent Paid \$900.00

Landlord's Position

17. The landlord testified that the tenants vacated the unit on 28-February-2025 without proper notice and as a result, he incurred a loss of rental income for the month of March. The landlord is seeking rent to be paid in full in the amount of \$900.00 for the month of March.

Tenant's Position

18. The tenants disputed that they should have to pay rent for the month of March as they were strongly advised by their medical physician to vacate the unit due to a mold infestation problem within the unit. The tenants testified that they became severely sick

due to the mold, and they submitted a copy of a note from their medical physician strongly recommending that they relocate from their current residence immediately (TT#2), and they also submitted photographs of the mold in the bathroom and bedroom areas of the unit to support the claim and photographs of how the mold affected their bodies (TT#3).

Analysis

19. It has been determined that the tenants failed to provide a proper termination notice as stated in paragraph 16 above and as such, the issue of whether or not the unit was uninhabitable shall not be analyzed for the purpose of this decision. I asked the landlord if he made any efforts to mitigate his losses and he responded that he advertised the unit for rent immediately, however was unsuccessful in re-renting the unit until 1-April-2025. I find that without providing the landlord with a proper written termination notice as stated above, the tenants are responsible for the landlord's loss of rental income for the month of March.

Decision

20. The landlord's claim for *rent paid* succeeds in the amount of \$900.00.

Issue # 3: Utilities Paid \$149.89

Landlord's and Tenant's Positions

21. The landlord testified that utilities are outstanding in the amount of \$149.89 and he submitted a copy of the *NL Power* bill to support the claim (LL#2). The landlord testified that the tenants agreed to pay 50% of the monthly utility bill and he stated that there is an outstanding balance for the period of January 20 – February 20 in the amount of \$149.89 and he is seeking utilities to be paid in full. The tenants did not dispute that they owe the outstanding utility bill for that period, nor did they dispute the amount.

Analysis & Decision

22. As the tenants did not dispute the landlord's claim for outstanding utilities, I find that the tenants are responsible for utilities paid in the amount of \$149.89, and as such the landlord's claim for *utilities paid* succeeds in the amount of \$149.89.

Issue # 4: Hearing expenses \$20.00

Analysis

23. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and submitted a copy of the receipt to support the claim (LL#3). In accordance with Section 12-1 of the *Residential Tenancies Policy Manuel*, claimable costs may include the filing fee. As the landlord's claim has been successful, the tenants shall pay the hearing expenses.

Decision

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

Issue # 5: Security deposit applied against monies owed Security deposit refunded

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 20, 22 and 24 above 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 annual interest rate for 2024-2025 is 1%.

Decision

27. The landlord's claim to have the *security deposit applied against monies owed* succeeds.
28. The tenant's claim to have a *refund of security deposit* does not succeed.

Summary of Decision

29. The verbal termination notice given on 17-February-2025 was not a valid notice.

30. The tenant's claim for refund of security deposit does not succeed.

31. The tenants shall pay the landlord \$466.28 as follows:

Rent paid	\$900.00
Utilities paid	149.89
Hearing expenses	20.00
Less: security deposit & interest.....	603.61
Total	\$466.28

May 13, 2025

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office