

Residential Tenancies Tribunal

Application 2025-0257-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 9:15 a.m. on 22-April-2025.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” was 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 their application stating that they had served the tenant with the notice of the hearing via prepaid registered mail, tracking number [REDACTED] on 4-April-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 1-July-2022. Rent is \$914.00 per month due on 1st of each month. A security deposit of \$430.00 was collected in the beginning of the tenancy and is still in landlord’s possession.
7. The landlord amended their application to decrease the amount of rent from \$279.00 as per application to \$233.00 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 \$308.00;
 - 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 27-March-2025 with a termination date of 7-April-2025.

Landlord's Position

12. The landlord's representative stated that the rent was in arrears since August-2024. The landlord's representative stated that the residential manager served the notice via placing it under the door on 27-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 was in rental arrears when the termination notice was served, and even after the subsidizing payments and tenant's payments were made, on the day of termination of 7-April-2025, the tenant was still in arrears.

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 27-March-2025 meets the requirements of the Act and is a valid notice.

Decision

16. The tenant should have vacated the property by 7-April-2025.

Issue # 2: Rent paid and late fees \$308.00

Landlord's Position

17. The landlord's representative testified that rent is outstanding in the amount of \$308.00 including late fees in the amount of \$75.00. The landlord's representative stated that the rent was increased effective 1-July-2024. At that time the tenant had a credit.

18. The landlord's representative stated that tenant received rent subsidies through NL Housing and educational support. However, starting in July, the monthly subsidy payments were \$54.00 short of the full rent amount, and after the credit was used against increased rent, the tenant began accumulating rent arrears. The landlord's representative stated that there were two payments of \$50.00 each made by the tenant in April. The landlord submitted rental ledger to support their claim, see below:

1/1/2025	1/2025	C-7500840	rentent - Residential Rent	914.00	0.00	0.00	914.00	0.00	171.00
1/31/2025	1/2025	R-6832885	chk# EFT - AES - Feb Subsidy	0.00	0.00	0.00	0.00	74.50	96.50
1/31/2025	1/2025	R-6832886	chk# EFT - AES - Feb Subsidy	0.00	0.00	0.00	0.00	74.50	22.00
1/31/2025	1/2025	R-6833282	chk# EFT - NFLD Housing - Feb Subsidy	0.00	0.00	0.00	0.00	711.00	-689.00
2/1/2025	2/2025	C-7542736	rentent - Residential Rent	914.00	0.00	0.00	914.00	0.00	225.00
2/28/2025	2/2025	R-6866317	chk# EFT - AES - Mar Subsidy	0.00	0.00	0.00	0.00	74.50	150.50
2/28/2025	2/2025	R-6866318	chk# EFT - AES - Mar Subsidy	0.00	0.00	0.00	0.00	74.50	76.00
2/28/2025	2/2025	R-6866556	chk# EFT - NFLD Housing - Mar Subsidy	0.00	0.00	0.00	0.00	711.00	-635.00
3/1/2025	3/2025	C-7582472	rentent - Residential Rent	914.00	0.00	0.00	914.00	0.00	279.00
3/31/2025	3/2025	R-6899716	chk# EFT - NFLD Housing - Apr Subsidy	0.00	0.00	0.00	0.00	711.00	-432.00
4/1/2025	4/2025	C-7622451	rentent - Residential Rent	914.00	0.00	0.00	914.00	0.00	482.00
4/1/2025	4/2025	R-6901980	chk# EFT - AES -	0.00	0.00	0.00	0.00	74.50	407.50
4/1/2025	4/2025	R-6901981	chk# EFT - AES -	0.00	0.00	0.00	0.00	74.50	333.00
4/3/2025	4/2025	R-6905109	chk# Online Pmt -	0.00	0.00	0.00	0.00	50.00	283.00
4/16/2025	4/2025	R-6909652	chk# Online Pmt -	0.00	0.00	0.00	0.00	50.00	233.00

19. 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.

20. 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.

21. I accept the landlord's testimony that the rent was not paid in full since August-2024, 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 April-2025 is calculated on a prorated basis to the date of hearing, as this Tribunal does not consider future rent. See amended ledger below:

Amended Rental Ledger 2025-0257-NL			
Date	Action	Amount	Total
January 31, 2025		balance	-\$689.00
February 1, 2025	Rent due	\$914.00	\$225.00
February 28, 2025		Payment (subsidy)	-\$860.00
March 1, 2025	Rent due	\$914.00	\$279.00
March 31, 2025		Payment (subsidy)	-\$711.00
April 1-22, 2025	Rent due	\$660.88	\$228.88
April 1, 2025		Payment (subsidy)	-\$149.00
April 3, 2025		Payment	-\$50.00
April 16, 2025		Payment	-\$50.00
	Late fees	\$75.00	\$54.88

Daily rate: \$914.00 x 12 mths = \$10968.00
\$10968.00/ 365 days = \$30.04 per day

22. The tenant shall pay a daily rate of \$30.04 until the landlord regains the possession of the unit.

Decision

23. The landlord's claim for rent and late fees succeeds in the amount of \$54.88.

Issue # 3: Hearing expenses \$38.12

Analysis

24. 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

25. 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 \$430.00

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 paragraphs 16, 23 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 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 2022-2023 was 0%, the annual interest in 2024-2025 is 1%.

Decision

28. Security deposit plus interest of \$435.63 to be applied against monies owed.

Summary of Decision

29. The tenant shall pay the landlord \$00.00 as follows:

Rent and late fees	\$54.88
Hearing expenses	\$38.12
Less Security Deposit & interest	\$435.63
Total	\$00.00

30. The tenant shall pay a daily rate of rent beginning 23-April-2025 of \$30.04, until such time as the landlord regains possession of the property.

31. The tenant shall vacate the property immediately.

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 28, 2025

Date

Oksana Tkachuk, Adjudicator
Residential Tenancies Office