

Residential Tenancies Tribunal

Application 2025-0358-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:59 p.m. on 22-May-2025.
2. The applicant, [REDACTED] (landlord 1), hereinafter referred to as “the landlord” attended by teleconference. The applicant, [REDACTED] (landlord 2), hereinafter referred to as “the landlord” did not attend.
3. The respondents, [REDACTED] (tenant 1) and [REDACTED] (tenant 2), hereinafter referred to as “the tenants” did not attend.

Preliminary Matters

4. The tenants were 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 hearing 10 clear days prior to the hearing date and, where the respondents fail 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 landlords submitted an affidavit with their application stating that they had served the tenants with the notice of hearing via pre-paid registered mail [REDACTED] and electronically by email to; [REDACTED] on 5 May-2025 (LL#1). I asked the landlord whose name the registered mail was addressed to, and she responded that the registered mail was addressed to tenant 2. Canada Post tracking indicates that the mail was not retrieved. The landlord submitted proof of the email address used for tenant 1 and proof that the email was sent on that date (LL#2). In accordance with the *Residential Tenancies Act, 2018* registered mail is considered served 5 days after it has been sent and sending the document electronically is also acceptable. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlords, I proceeded with the hearing in their absence.
5. There is a written month-to-month rental agreement which commenced on 1-December-2024. Rent is \$1500.00 per month due on the first day of each month and a security deposit of \$750.00 was paid on 19-November-2024 and is in the landlord’s possession.

6. Landlord 1 amended the application to increase *rent paid* from \$1500.00 as per the application to \$3000.00 and to include hearing expenses. Also, the disposition of the security deposit shall be dealt with in this decision.

Issues before the Tribunal

7. The landlords are seeking:
 - An Order for vacant possession of the rented premises.
 - Rent paid \$3000.00
 - Compensation paid for damages \$850.00
 - Hearing expenses \$44.07
 - Security deposit to be applied against monies owed \$750.00

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 is the following section of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Policy Manual*: Section 9-3: Compensation for damages to rented premises and Section 12-1: Recovery of costs.

Issue # 1: Vacant Possession of the Rented Premises

Relevant Submission

10. The landlords submitted a copy of a termination notice given on a *Landlord's Notice to Terminate Early – Cause* form under Section 19: Notice where failure to pay rent. The notice is signed and dated for 9-April-2025, with a termination date of 20-April-2025 (LL#3).

Landlord's Position

11. Landlord 1 testified that rent was in arrears when they gave the termination notice on the 9-April-2025 and was still in arrears on the termination date of 20-April-2025. The landlords are seeking vacant possession due to nonpayment of rent.

Analysis

12. Section 19 of the *Residential Tenancies Act, 2018* 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.*

13. The tenant was in rent arrears in excess of the 5 days when the termination notice was served. On the date of termination, 20-April the tenants were still in arrears. I asked the landlord how the termination notice was served, and landlord 1 responded that it was sent electronically on 9-April. In accordance with Section 19 of the *Residential Tenancies Act, 2018* as stated above, the termination notice meets the requirements of the Act and is a valid notice.

14. I find that the tenants should have vacated the premises on 20-April-2025.

Decision

15. The landlord's claim for an *order for vacant possession of the rented premises* succeeds.

Issue # 2: Rent paid \$3000.00

Relevant Submission

16. Landlord 1 testified that rent is outstanding in the amount of \$3000.00 for the months of April and May 2025 and they submitted a rental ledger to support the claim (LL#4). See breakdown of rental ledger below:

Rental Ledger 2025-0358-NL			
Date	Action	Amount	Total
March 31, 2025	Balance	\$0.00	\$0.00
April 1, 2025	Rent due	\$1,500.00	\$1,500.00
May 1, 2025	Rent due	\$1,500.00	\$3,000.00

Landlord's Position

17. Landlord 1 testified that the tenants have not paid rent for the months of April and May, and they are seeking rent to be paid in full.

Analysis

18. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid by a tenant(s) during the use or occupancy of a residential premises. I find that the tenants are responsible for outstanding rent. The rent ledger has been amended as this tribunal does not consider future rent. See copy of amended rental ledger below:

Amended Rental Ledger 2025-0358-NL			
Date	Action	Amount	Total
March 31, 2025		Balance	\$0.00
April 1, 2025	Rent due	\$1,500.00	\$1,500.00
May 1-22, 2025	Rent due (22 days)	\$1,085.04	\$2,585.04

Daily rate: \$1500 x 12mts = \$18000
\$18000 / 365 days = \$49.32 per day

- I find that the tenants are responsible for outstanding rent for the period of 1-April-2025 to 22-May-2025 in the amount of \$2585.04.
- I find that the tenants shall pay a daily rate of rent beginning 23-May-2025 in the amount of \$49.32, until such time as the landlords regain possession of the property.

Decision

- The landlord's claim for *rent paid* succeeds in the amount of \$2585.04.

Issue # 3: Compensation Paid for Damages \$850.00

Relevant Submission

- Landlord 1 testified that there are damages / losses to the unit in the amount of \$850.00 and they submitted a copy of a damages ledger to support the claim (LL#5). See copy of damages ledger below:

Compensation for Damages



Item #	Description of Damages	Compensation Claimed
E.g.	3cm x 3cm hole in bathroom wall	\$ 75.00
1	Plumbing	\$ 350.00
2	Broken window	\$ 500.00

Landlord's Position

- The landlord's position on each item as listed above is as follows:

Item # 1: plumbing (\$350.00) – Landlord 1 testified that the tenants informed her on 4-March-2025 that there was a problem with the plumbing and requested the services of a plumber. Landlord 1 testified that she had a plumber at the premises the next day to investigate and fix the problem. Landlord 1 testified that the plumber informed her that the drain was clogged with non-flushable wipes such as baby wipes and/or facial wipes. The landlords are seeking to be reimbursed for the cost of the plumber in the amount of \$350.00 and they submitted a copy of an email from [REDACTED] Ltd to support the claim (LL#6).

Item # 2: Broken Window (\$500.00) – Landlord 1 testified that there was an altercation at the residential premises on 1-April-2025 which involved tenant 2 and the brother of tenant 1 whereby one of the 2 were pushed up against a window breaking the window. The landlords are seeking the cost to replace the window plus labor in the amount of \$500.00 and they submitted a copy of a quote from *Kent* to support the claim (LL#7).

Analysis

24. In accordance with *Residential Tenancies Policy* 9-3, the applicants are required to show:
 - *That the damage exists;*
 - *That the respondent is responsible for the damage, through a willful or negligent act;*
 - *The value to repair or replace the damaged item(s)*
25. The tenants were not present to dispute any claims. Based on the landlord's testimony and the exhibits entered into evidence, both items are analyzed as follows:
26. **Item # 1: plumbing (\$350.00)** – Based on the landlord's testimony and the email entered into evidence from [REDACTED] *Ltd*, and in accordance with Section 9-3 of the *Policy* as stated above, I find that the landlords were able to show that the damage exists, they were able to show that the tenants were negligent in causing the damage and they were able to show the value to repair the damage. For those reasons, I find that the tenants are responsible to reimburse the landlords for the costs of plumbing services in the amount of \$350.00.
27. **Item # 2: Broken Window (\$500.00)** – Based on the landlord's testimony and in accordance with Section 9-3 of the *Policy* as stated above, I accept the testimony of landlord 1 that there was an altercation, and the window was broken due to a negligent act on the part of tenant 2. I also accept the quote from *Kent* which shows the value to replace the window. For those reasons, I find that the tenants are responsible for the cost to replace the window in the amount of \$385.24. I also find that it is reasonable to award \$100.00 in labor costs to have a professional install the window. I find that the tenants are responsible for the cost to replace the window in the amount of \$485.24.

Decision

28. The landlord's claim for *compensation paid for damages* succeeds in the amount of \$835.24.

Issue # 5: Hearing Expenses \$44.07

29. The landlords paid an application fee of \$20.00 to *Residential Tenancies* and they also incurred postal fees in the amount of \$24.07. The landlords submitted a copy of the receipts to support the claim (LL#8). In accordance with Section 12-1 of the *Residential Tenancies Policy Manual*, filing fees and postal fees can be claimable costs. As the landlord's claim for losses has been successful, I find that the tenants are responsible for the hearing expenses.

Decision

30. The landlord's claim for *hearing expenses* succeeds in the amount of \$44.07.

Issue # 6: Security Deposit applied against monies owed \$750.00

Analysis

31. Section 14 of the *Residential Tenancies Act, 2018* deals with security deposits, and the relevant subsections state:

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).
- (12) A landlord who does not make an application in accordance with subsection (11) shall return the security deposit to the tenant.

32. The landlord's claim for losses has been successful as per paragraphs 21, 28, and 30 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 and 2025 is 1%.

Decision

33. The landlord's claim to have the security deposit applied against monies owed succeeds.

Summary of Decision

34. The tenants shall pay the landlords \$2710.77 as follows:

Rent paid	\$2585.04
Compensation for damages	835.24
Hearing expenses	44.07
Less: security deposit & interest	753.58
 Total	 \$2710.77

35. The tenants shall pay a daily rate of rent beginning 23-May-2025 of \$49.32, until such time as the landlords regain possession of the property.

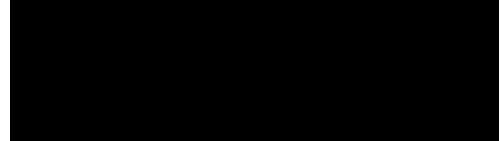
36. The tenants shall vacate the property immediately.

37. The tenants shall pay to the landlords any costs charged to the landlords by the Office of the High Sheriff should the landlords be required to have the Sheriff enforce the attached Order of Possession.

38. The landlords will be awarded an Order of Possession.

May 23, 2025

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office