

## Residential Tenancies Tribunal

Application 2025-0379-NL

Michael Reddy  
Adjudicator

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### Introduction

1. The hearing was called at 9:15 AM on 27 May 2025 via teleconference.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as "the landlord", participated in the hearing.
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. I spoke with her by telephone prior to the hearing at which time she informed she was unavailable for the hearing a due to employment commitments. 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 respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent's absence so long as she has been properly served. The landlord submitted an affidavit with the application stating the tenant was served electronically [REDACTED] with the notice of hearing on 4 May 2025 before 6:02 PM (L#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 her absence.
5. There was a fixed-term rental agreement (L#2) which commenced on November 1, 2020, that has since converted to a monthly agreement, with rent set at \$950.00 per month, due on the first of each month. A security deposit of \$581.00 was collected on the tenancy in October 2020 and is still in the possession of the landlord.
6. The landlord amended their application and is seeking hearing expenses. During the hearing, the landlord also amended the rental premises indicated on the Application for Dispute Resolution (L#3) from Unit [REDACTED] to Unit [REDACTED], [REDACTED], [REDACTED], NL.
7. The disposition of the security deposit will also be determined in this decision.

8. In a proceeding under the *Residential Tenancies Act, 2018*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

### Issues before the Tribunal

9. The landlord is seeking the following:
- An Order of Vacant Possession of the Rental Property
  - Rental Arrears in the amount \$1900.00
  - Security deposit to be applied against payment owed
  - Hearing Expenses in the amount \$20.00

### Legislation and Policy

10. The jurisdiction of the Director of the Residential Tenancies is outlined in Sections 46 and 47 of the *Residential Tenancies Act, 2018 (the Act)*.
11. Also relevant and referred to in this decision are Sections 14, 19, 34 and 35 of *the Act*.

### Issue 1: Vacant Possession of the Rental Premises

#### Landlords Position:

12. Along with the application, the landlord supplied a termination notice electronically served to the tenant during office hours under Section 19 of the *Residential Tenancies Act, 2018* on 6 February 2025 (L#4).
13. The landlord testified the tenant remains in the rental premises on the date of the hearing (27 May 2025).

### Analysis

14. To be valid, a termination notice must meet all requirements of the *Act*. Section 19, Notice where failure to pay Rent, of the *Residential Tenancies Act, 2018* states:

*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 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.*

15. Rent is required to be paid by a tenant for the use or occupancy of a residential premises. The tenant had been in rental arrears in excess of 5 days when the notice was serviced on 6 February 2025 to be out of the rental premises by 18 February 2025. The landlord testified the tenant cleared up the rental arrears for February 2025 in March 2025. However, on the date of termination, 18 February 2025, the tenant was in arrears. At the time the termination notice was served to the tenant, in accordance with s. 35(2)(f), the notice was a valid notice. 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.

### **Decision**

16. The landlord's claim for vacant possession succeeds.

### **Issue 2: Rent Paid \$1900.00**

#### Landlords position:

17. The landlord testified that rent is outstanding in the amount of \$1900.00. The landlord stated in February 2025, the tenant had rental arrears which she cleared up in March 2025. After doing so, the landlord stated the tenant incurred rental arrears for March and April 2025. Along with the application, the landlord supplied a rental ledger (L#5).

### **Analysis**

18. Non-payment of rent is a violation of the rental agreement. I accept the landlord's uncontradicted testimony that the tenant owes rental monies for the months of March and April 2025.

### **Decision**

19. The tenant shall pay to the landlord rental arrears of \$1900.00.

### **Issue 3: Security Deposit**

20. The landlord is owed monies and is therefore entitled to apply the security deposit against the sum owed. In this case, the initial security deposit was \$581.00 which the landlord testified was paid in October 2020 prior to occupancy.

21. S. 14(7) of the *Act* says that a landlord shall credit interest to the tenant on the full amount or value of the security deposit, at the rate prescribed by the regulations, during the time the security deposit is held by the landlord. The regulations prescribe a cumulative simple interest rate of 0% for 2020 to 2023, and 1% annual for the years 2024 and 2025. This results in interest of \$8.17, for a total of \$589.17.

#### **Decision**

22. The landlord can apply the security deposit with interest against the sum owed.

#### **Issue 4: Hearing Expenses**

23. The landlord offered evidence of the application fee (L#6) and is seeking compensation.

#### **Decision**

24. As the application succeeds, in accordance with Residential Tenancies Program Policy 12-001, the landlord claim for hearing expenses succeeds.

#### **Summary of Decision**

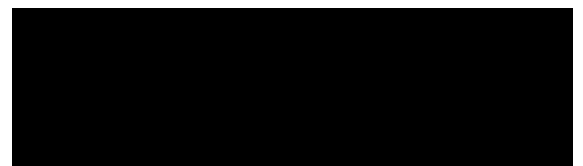
25. The tenant shall pay to the landlord \$1330.83 as follows:

Rent.....	\$1900.00
Less security deposit + interest.....	\$589.17
Hearing expenses.....	<u>\$20.00</u>
Total.....	\$1330.83

26. The landlord is granted an order of vacant possession
27. 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.

13 June 2025

Date



Michael Reddy, Adjudicator  
Residential Tenancies Office