

## **Residential Tenancies Tribunal**

Application 2022-No.211-NL

Decision 22-0211-00

Jacqueline Williams  
Adjudicator

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### **Introduction**

1. Hearing was called at 9:13 a.m. on 21-June-2022.
2. The applicant, [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference; the landlord completed an authorized representative form (LL#01) naming, [REDACTED] as his representative.
4. [REDACTED] attended the teleconference and will hereinafter be referred to as “the authorized representative.”

### **Preliminary Matters**

5. The tenant submitted an affidavit (TT#01) stating that she served the landlord notification of the hearing by pre-paid registered mail on 30-March-2022. The authorized representative confirmed that they received the notification by pre-paid registered mail in early April 2022.
6. The tenant amended her claim for security deposit refund from \$15.00 to \$460.00.

### **Issues before the Tribunal**

7. The tenant is seeking:
  - Security deposit refunded \$460.00
  - Compensation for inconvenience \$2,150.00.

### **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 14: Security deposit, as well as Residential Tenancies Policy 9: Claims for Compensation.

### **Issue 1: Security deposit refunded \$460.00**

#### Tenant's Position

10. The tenant submitted her rental agreement (TT#02) and confirmed that she had a term agreement from 01-June-2021 until 01-June-2022. She said that she rented a unit in a four-plex. Her rental period is from the first day of each month until the last day of the month. She said that she pays \$950.00 a month rent which includes utilities. She said that she paid a security deposit of \$475.00 on 01-June-2021. She has since moved out and the landlord has returned \$15.00 and retained \$460.00 of the deposit.
11. The tenant said that she pays the landlord's sister to clean her home. One day this past winter, while the landlord's sister was cleaning the home, the landlord's sister-in-law brought the tenant, to a doctor's appointment. When they returned from the doctor's appointment, she invited her in. She said that the landlord told her that they had to leave and she was not allowed to have them on the property. The tenant doesn't agree that he can tell her who is allowed at her apartment.
12. After this, the tenant said that the landlord decided to terminate her tenancy. She said that she was given a 3 month termination, then a 5 day termination and then another 3 month termination which was dated for 31-March-2022. She doesn't know the dates and details of the other notices. She later stated that she was also given a 3 day notice, but she didn't recall the details of that notice. She didn't submit the notices into evidence.
13. The tenant said that she found a new place to rent and moved on 27-February-2022. She said that she told the landlord she was going to move the end of February. She said that the landlord gave her \$15.00 in an envelope when she was moving out and he kept the rest of her security deposit. She said that there was no damage and she wants her deposit back.
14. The tenant provided a breakdown of the costs (TT#03) applied to the security deposit: \$270.00 repair of hot water tank, \$145.00 repair of breaker, \$32.00 registered mail and application fee and \$13.00 late fees.
15. The tenant disputes that she did any damages.

#### Landlord's Position

16. The authorized representative confirmed the details of the rental agreement. She said that they did give a three month notice to the tenant in December with a termination date for 31-March-2022. She said that they had a lot of issues with the tenant after giving the notice.

17. The authorized representative said that they then gave a termination notice for interference with peaceful enjoyment on 19-December-2021 with a termination date of 26-December-2021. She said that they knew that the tenant couldn't find a place and move that quickly, so they decided to give a second three month notice before the end of December 2021 with a termination date of 31-March-2022.
18. The authorized representative said that the tenant found a place in February 2022 and they accepted her notice for the end of February.
19. The authorized representative confirmed that the costs applied are as shown in paragraph 14 and evidence # LL#03. They did not provide receipts.

## **Analysis**

20. As per Section 14 of the *Residential Tenancies Act, 2018*:

### ***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.**

**(13) Where a landlord does not make an application under paragraph (10)(b) or return the security deposit in accordance with subsection (12), the director may, without conducting a hearing, make an order requiring the landlord to return the security deposit to the tenant.**

**(14) Where a landlord does not make an application under subsection (11), he or she is not prohibited from making an application under section 42 other than an application with respect to a claim against the security deposit.**

**(15) For the purpose of subsections (8) to (14), "security deposit" includes the interest credited under subsection (7).**

21. Section 14 states that once a tenant makes an application for the return of the security deposit, the landlord has 10 days to file a claim, from the date they are notified of the application. If they don't file the claim in the 10 days, then the security deposit is to be returned to the tenant.
22. The landlord shall return the remainder of the security deposit to the tenant.

### **Decision**

23. The tenants claim for return of the security deposit succeeds in the amount of \$460.00.

### **Issue 2: Compensation for inconvenience \$2,150.00**

#### Tenant's Position

24. The tenant submitted a list of inconveniences that she believes the landlord should compensate her for. They are as follows:
  - Moving trailer and truck loads ..... \$700.00
  - Cost of packing and cleaning ..... 300.00
  - Movers ..... 200.00
  - Month's rent for stress and inconvenience .. 950.00
  - Total ..... \$2,150.00
25. The tenant said that the landlord cut off her power and hot water. She said that she had to purchase a \$140.00 extension cord to run electricity to the apartment. She said she had to borrow a space heater and plug it into the extension cord to stay warm. She provided pictures (LL#05).
26. The tenant denies that she drained the water tank and stated that the landlord turned off the hot water to the unit. She said when another renter asked for the water to be turned on that the water came back on.
27. The tenant said that when the police came she was running water from two taps, to take a bath and wash her dishes.

#### Landlord's Position

28. The landlord said that the tenant had said that she would "drain this place dry." According to the landlord the tenant was running hot water from both her taps and completely drained the hot water tank which did damage to the element. She said that they called the police and they reported that the tenant had her taps on full force and her oven door wide open.
29. The landlord also said that a breaker was blown and that the entire building was out of power for two days. The landlord said that the tenant was running a number of space heaters.

30. The landlord questions the list of expenses that the tenant is claiming. She said that the cost of moving is not the responsibility of the landlord. The cost of cleaning is also not the responsibility of the landlord. She said that she doesn't know why they would refund a month's rent.

### **Analysis**

31. The tenant's testimony was often confusing, she denied running the hot water dry, but then said when the police arrived, she had the water on in the sink and bathtub, she was doing this to get a bath and wash the dishes.

32. The tenant also said she had to run an extension cord to turn on the space heaters because the landlord had shut off her electricity, however the pictures she entered into evidence shows the heaters plugged into the wall socket and are clearly turned on; this supports the landlords claim that she was running a number of space heaters. The landlord said that this could put a drain on the system and cause a breaker to blow.

33. The landlord is correct, the responsibility of the tenant's move and the cleaning of the apartment is not the responsibility of the landlord. The tenant also did not provide an argument to support the claim for rent.

34. The tenant's claim fails.

### **Decision**

35. The tenant's claim for compensation for inconvenience fails.

### **Summary of Decision**

36. The landlord shall reimburse the remainder of the security deposit totaling \$460.00.

July 4, 2022

Date

  
Jacqueline Williams, Adjudicator  
Residential Tenancies Office