

Residential Tenancies Tribunal

Application 2022-0883-NL

Decision 22-0883-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 11:16 p.m. on 17-November-2022.
2. The applicant, [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the landlord” did not attend.

Preliminary Matters

4. The landlord was not present or represented at the hearing and I was unable to reach her by telephone at the start of the hearing as there was no number provided. 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 she has been properly served. The tenant submitted an affidavit (TT#01) with his application stating that he served the landlord with notification of today’s hearings electronically to her email address [REDACTED], on 10-October-2022. He said that they used this email address for communication in the past, the landlord provided him the email and he also used it to pay his rent. As the landlord was properly served, and as any further delay in these proceedings would unfairly disadvantage the tenant, I proceeded with the hearing in her absence.

Issues before the Tribunal

5. The tenant is seeking
 - Refund of security deposit \$300.00

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.

7. Also relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 14: Security deposit.

Issue 1: Security deposit refunded \$300.00

Relevant submissions

8. The tenant provided the terms of his rental agreement (TT#02). He said he moved in 01-April-2021 and he moved out 31-August-2022. He said he rented a bedroom in a house for \$410.00 a month, due the first day of each month. He said he paid to the landlord a security deposit of \$300.00
9. The tenant provided correspondence (TT#03) where on 09-September-2022 he asks the landlord for his deposit returned and she tells him he will not be getting it back.
10. The tenant said he opened his claim on 10-September-2022 and informed his landlord on 10-October-2022 of the hearing date. He said he has not received the security deposit back.

Analysis

11. 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).

12. 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.
13. The landlord shall return the security deposit to the tenant.

Decision

14. The tenant's claim for the return of his \$300.00 security deposit succeeds.

Summary of Decision

15. The landlord shall return the \$300.00 security deposit to the tenant.

November 18, 2022

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office