

Residential Tenancies Tribunal

Applications 2022 No. 0801 NL

Decision 22-0801-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 1:48 PM on 25 January 2025 at via teleconference.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as "tenant1" and "tenant2" respectively, participated in the hearing. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as "landlord1" and "landlord2" also participated.
3. Two affidavits of service were provided by the tenants confirming that both landlords were served by email on 22 December 2022 (T#1). Proof of service was also provided (T#2) and the landlords confirmed service.
4. The details of the claim were presented as a fixed term 12 month tenancy for which a written rental agreement was provided (T#3). Monthly rent was \$1,950.00 and a security deposit in the amount of \$1,462.50 was collected. The agreement ran from 01 May 2022 through to 30 April 2022 after it terminated with notice by the tenants.
5. In a proceeding under the *Residential Tenancies Act*, 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 applicants have to establish that their account of events is more likely than not to have happened.

Issues before the Tribunal

6. The tenants are seeking the following:
 - Return of a \$1,362.50 security deposit collected:
 - Compensation for inconvenience in the amount of \$907.91.

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018* (the *Act*).
8. Also relevant and considered in this case is sections 10 and 14 of the *Act*.

Issue 1: Return of Security Deposit (\$1,362.50)

Tenants' Position

9. Tenant1 testified that they are actually seeking the return \$837.37 from the original \$1,462.50 security deposit because tenant2 previously received a payment from the landlords of \$525.13 in June 2022. Tenant1 testified that they dispute the landlord's claim of \$937.37 against their security deposit because:
 - The only charge the tenants accept is a \$100.00 charge for garbage left behind, as noted in an invoice provided by landlord1 (see page 6 in T#4);
 - The only deficiencies identified in the move out inspection are missing towels and an un-swept garage for which documentation was provided by the tenants (see page 8). Tenant2 testified that they had the premises professionally cleaned prior to vacating;
 - The additional deficiencies flagged by the landlords were only reported AFTER a subsequent tenant occupied the rental premises and should not be attributed to the tenants in this dispute.

Landlord's Position

10. Landlord1 testified that he is seeking compensation because "closer inspection" of a room occupied within the rental premises by a "subtenant" resulted in the discovery of a contaminated mattress and bedding. He provided proof of documentation from the cleaner hired for this subsequent inspection, as well as proof of all related costs incurred to replace the mattress and bedding (L#1).
11. Landlord1 testified that he has been a landlord for many years and owns multiple properties. During this time, he testified that he has always been able to "professionally and rationally" dispose of security deposits, by either returning them in full or retaining a portion. Landlord1 testified that this is his first time appearing at the Residential Tenancies Tribunal seeking compensation. Landlord1 also specifically testified that he has not at any point made an application to this Tribunal for either compensation for Damages, or to retain a portion of the tenant's security deposit.

Analysis

12. The tenants are requesting the return of their remaining \$837.37 security deposit and the landlord have requested to retain it for compensation.

13. Section 14, sub 10, 12 and 14 of the *Residential Tenancies Act, 2018* states:

(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.

(12) A landlord who does not make an application in accordance with subsection (11) shall 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.

14. Where the landlords did not submit a counter claim for damages, the tenants claim for their security deposit succeeds in the amount requested of \$837.37 in accordance with 14(12) of the *Act* (as shown above).

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15. The tenants' claim for the return of their security deposit succeeds in the claimed amount of \$837.37.

Issue 2: Compensation for Inconvenience \$907.91

Tenants' Position

16. Tenant1 referred to a written summary (T#5) provided and testified that they are seeking compensation for two days of lost wages for himself (\$222.00) and tenant2 (\$662.60).

Landlords' Position

17. Landlord1 testified that he does not understand the nature or duration of the tenants' claim for compensation for inconvenience.

Analysis

18. This tribunal does not consider time spent by applicants or respondents to prepare for disputes as eligible for compensation. Consequently, the tenants claim for compensation for time anticipated to be spent, does not succeed in any amount.

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19. The tenant's claim for compensation for inconvenience does not succeed in any amount.

Issue 3: Hearing Expenses

20. The tenants claimed the \$20.00 expense of applying for this application along with \$3.31 in printing costs related to serving the respondents. Of note, is that the only receipt provided for printing is in the amount of \$1.13 (see page 1 in T#4). Consequently, I find that the tenants' total claim for verifiable hearing expenses is \$21.13 and because their claim for the return of their remaining security deposit has been successful, I find that the landlords shall pay these hearing expenses.


Summary of Decision

21. The tenants are entitled to the following:
- The return of their remaining \$837.37 security deposit.
 - Payment from the landlord in the amount of \$858.50, determined as follows:

a)	Return of Security Deposit.....	\$837.37
b)	Hearing Expenses.....	\$21.13
c)	Total.....	<u>\$858.50</u>

30 January 2023

Date


Jaclyn Casler
Residential Tenancies Tribunal