

Residential Tenancies Tribunal

Application 2023-No.0287 -NL

Decision 23-0287-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 1:59 p.m. on 27-April-2023.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
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 reached her by telephone ([REDACTED]) at the start of the hearing, however she disconnected the call. 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 landlord submitted an affidavit (LL#01), completed by one of his staff, stating that she had served the tenant personally with notification of today's hearing on 12-April-2023. 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. The landlord amended their application to remove premises vacated as the tenant moved on 17-April-2023. They also added security deposit applied to monies owed.

Issues before the Tribunal

6. The landlord is seeking:
 - Rent \$1,300.00
 - Security deposit applied against monies owed \$325.00
 - Hearing Expenses \$20.00

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

Issue 1: Rent \$1,300.00

Relevant Submissions

9. The landlord stated he entered a verbal monthly agreement with the tenant beginning 2021. The tenant pays \$650.00 a month rent. The rental period is from the 1st day of the month until the last day; rent is due the 1st day of each month. The landlord said that the tenant paid off a security deposit of \$325.00 after she moved in because she didn't have the full amount at the start of the tenancy. He is still in possession of the deposit.
10. The landlord explained that he had given the tenant a termination notice (LL#02) and she was supposed to move by 05-April-2023. He said she was refusing to leave, but did subsequently move on 17-April-2023.
11. The landlord said that rent was paid in full up to and including February 2023. On 01-March-2023 the tenant didn't pay rent and she has also not paid for the month of April.
12. The landlord is seeking the two months' rent totaling \$1,300.00.

Analysis

13. Non-payment of rent is a violation of the rental agreement. I accept the landlord's testimony that the tenant did not pay rent for the months of March and April. The tenant did not live in the apartment for the full month of April, and as rent is paid for the use and enjoyment of a residence, she will be expected to pay a daily rate, up to and including her last day 17-April-2023.
14. The daily rate is calculated as follows:
 - \$650.00 x 12 months = \$7,800.00
 - \$7,800.00 divided by 365 days = \$21.37 a day
 - \$21.37 x 17 days = \$363.29 rent for 01- 17 April
15. The tenant shall pay the landlord the rent owed totaling \$1,013.29, as follows:
 - March rent..... \$650.00
 - April rent \$363.29
 - Total \$1,013.29

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16. The landlord's claim for rent succeeds in the amount of \$1,013.29.

Issue 2: Security deposit applied against monies owed \$325.00

Relevant Submissions

17. The landlord stated in paragraph 9 that the tenant paid a security deposit of \$325.00 at the start of her tenancy; he is still in possession of the deposit. The landlord is requesting to retain the security deposit against monies owed.

Analysis

18. The landlord's claim for loss has been successful, paragraph 16, and he shall retain the deposit as per Section 14 of the *Residential Tenancies Act, 2018*, see below:

Security deposit

14. (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

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19. The landlord's claim to retain the security deposit against monies owed succeeds in the amount of \$325.00.

Issue 3: Hearing expenses reimbursed \$20.00

20. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#03) and pursuant to policy 12.01, is entitled to reimbursement of that cost from the tenant.

Summary of Decision

21. The tenant shall:


- Pay the landlord \$708.29 as follows:
 - Rent \$1,013.29
 - Hearing expenses 20.00
 - Security deposit applied (325.00)
 - Total \$708.29

The landlord

- Shall retain the security deposit of \$325.00.

May 3, 2023 —

Date

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Jacqueline Williams, Adjudicator
Residential Tenancies Office