

Residential Tenancies Tribunal

Application 2023 No. 429NL

Decision 23-0429-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:52 PM on 15 June 2023 via teleconference.
2. The applicant, [REDACTED] hereinafter referred to as "the tenant", participated in the hearing. The respondent, [REDACTED] hereinafter referred to as "the landlord", was also in attendance. [REDACTED] also participated.

Issues before the Tribunal

3. The tenant is seeking the following:
 - An order for a refund of rent in the amount of \$2850.00;
 - A determination of the validity of termination notice issued to her.

Legislation and Policy

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

Preliminary Matters

5. The tenant amended her application at the hearing and stated that she was no longer seeking a determination of the validity of the termination notice issued to her.

Issue 1: Refund of Rent - \$2850.00

Relevant Submissions

The Tenant's Position

6. The tenant stated that she had entered into a monthly rental agreement with the landlord on 01 March 2019. The agreed rent was set at \$950.00 per month, and the tenant testified that that rent was to be paid in bi-weekly installments of \$475.00. The tenant also claimed that she had not paid a security deposit, but rather that she had paid her last month's rent to the landlord before she moved in, in the amount of \$950.00.
7. With her application, the tenant submitted a redacted copy of her banking records, and highlighted all of the \$475.00 payments that were made to the landlord during the course of her tenancy. She testified that because she had been paying bi-weekly, there were some months where she had paid the landlord 3 installments of rent, and after reviewing her records, she calculates that, since 2019, she had overpaid her rent by \$2850.00.
8. The tenant is seeking an order for a return of that overpaid rent.

The Landlord's Position

9. The landlord claimed that the rent was due semi-monthly, on the 1st and 15th day of each month. █ claimed, though, that the tenant was not paying rent on those dates, and the rent payments were made on all sorts of different days during the month.
10. The landlord stated that he had conducted an audit of his own records after he had received the tenant's application, and, except for 1 disputed payment, he concurred that the tenant had made extra rent payments during the course of her 3 year tenancy. He calculates that the tenant is entitled to a refund of \$2375.00, not \$2850.00.
11. The payment in dispute was alleged to have been made on 18 August 2022, but the landlord stated that that payment was not received by him and he has no record of it. During the hearing, █ sent the tenant a copy of the landlord's banking records showing that no such payment was received on that date.

Analysis

12. It is not disputed that the tenant had made extra rent payments to the landlord during the course of her tenancy. With respect to the contested payment made on 18 August 2022, the tenant acknowledged that that payment does not appear to have been received by the landlord and she stated that she would be happy with a refund of \$2375.00 as the landlord calculated.
13. As the parties agree that the tenant is entitled to a refund of \$2375.00, the tenant's claim succeeds in that amount.

Decision

14. The tenant's claim for a refund of rent succeeds in the amount of \$2375.00.

20 June 2023

Date

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