



## Residential Tenancies Tribunal

Application 2023-No.0467 -NL  
 2023-No.0493-NL

Decision 23-0467-00

Jacqueline Williams  
 Adjudicator

### Introduction

1. Hearing was called at 11:03 a.m. on 04-July-2023.
2. The applicant, [REDACTED] hereinafter referred to as "the tenant" attended by teleconference.
3. The respondents, [REDACTED] are represented by [REDACTED] he attended the hearing by teleconference and will hereinafter referred to as "the landlord."

### Preliminary Matters

4. Both parties served the other electronically with notification of today's hearing. The tenant served the landlord on 24-May-2023 (TT#01) and the landlord served the tenant on 29-May-2023 (LL#01). Both confirmed receipt of notification as stated by the other party.

### Issues before the Tribunal

5. The landlord is seeking:
  - Rent / inconvenience \$600.00
  - Security deposit applied against monies owed \$360.00
  - Hearing Expenses \$20.00

The tenant is seeking:

- Security deposit returned \$360.00

### 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 are the following sections of the *Residential Tenancies Act, 2018*: Section 2: Definitions, Section 14: Security deposit, and Section 18: Notice of termination of rental agreement.

### **Issue 1: Rent / Inconvenience \$600.00**

#### **Landlord's Position**

8. The landlord stated that he and the tenant entered a verbal rental agreement. The agreement is monthly, from the first day of the month until the last. The tenant pays \$600.00 a month for rent, which includes utilities. He rented a room in a house that has 6 rental rooms and 2 apartments. He moved in on 01-April-2023 and subsequently moved out on 01-May-2023. The tenant paid a security deposit of \$360.00 on 31-March-2023; the landlord is still in possession of the deposit.
9. The landlord said that the tenant moved out and only gave 3 days' notice. The landlord is seeking the lost rent for May. He said that as soon as they knew the tenant was moving they advertised the room, however, they did not secure a renter until 01-June-2023.
10. The landlord is seeking the \$600.00 rent lost for May 2023.

#### **Tenant's Position**

11. The tenant confirms the details of his rental agreement as stated by the landlord. The tenant explained that it was never his intent to live in the room long term, this is why he didn't want a written agreement. He said after he moved in he found the place to be terrible. He said that there were frequent fights and he couldn't sleep. He said that he works full time and never got a full night's sleep while he lived there.
12. He confirms that he only gave 3 days' notice because the agreement was only verbal.

#### **Analysis**

13. In accordance with Section 2, of the *Residential Tenancies Act, 2018*, these parties are considered a landlord and tenant. A rental agreement does not have to be written to be binding. A verbal agreement is recognized in the *Residential Tenancies Act, 2018* and must follow the provisions outlined in the *Act*.

#### ***Definitions***

##### ***2. In this Act***

....

(c) *"landlord" includes*

- (i) *an owner of a residential premises,*
- (ii) *an agent or another person who, on behalf of an owner,*
  - (A) *permits the use or occupation of a residential premises under a rental agreement, or*
  - (B) *exercises powers and performs duties under this Act or the rental agreement,*
- (iii) *the heirs, assigns and personal representatives of a person referred to in subparagraph (i), and*
- (iv) *a person, other than a tenant using or occupying a residential premises, who*
  - (A) *is entitled to use or occupy the residential premises, and*
  - (B) *exercises any of the rights of a person referred to in subparagraph (i) or (ii) under this Act or a rental agreement;*

....

(h) *"rental agreement" means a written, oral or implied agreement between a landlord and a tenant in which the tenant is granted the right to use or occupy a residential premises on the condition rent is paid;*

....

(m) *"tenant" includes*

- (i) *a person who is entitled to use or occupy a residential premises under a rental agreement,*
- (ii) *a person other than a landlord who enters into a rental agreement for the purpose of renting a residential premises for use or occupation by another person, and*
- (iii) *the assigns and personal representatives of a person referred to in subparagraph (i) or (ii).*

14. Therefore the landlord is entitled to not less than one months' notice as per Section 18, of the *Residential Tenancies Act, 2018*, as follows:

***Notice of termination of rental agreement***

***18. (1) A tenant shall give the landlord notice that the rental agreement is terminated and the tenant intends to vacate the residential premises***

- (a) *not less than 7 days before the end of a rental period where the residential premises is rented from week to week;*
- (b) *not less than one month before the end of a rental period where the residential premises is rented from month to month; and*
- (c) *not less than 2 months before the end of the term where the residential premises is rented for a fixed term.*

15. The 3 days' notice given by the tenant is not adequate. The landlord did try to mitigate his loss by advertising the room immediately, however the room was not rented until 01-June-2023 and this caused undue hardship on the landlord.
16. The tenant is responsible to provide notice and therefore shall pay to the landlord the lost rent totaling \$600.00.

### **Decision**

17. The landlord's claim for rent succeeds in the amount of \$600.00.

**Issue 2: Security deposit applied against monies owed \$360.00**

**Issue 3: Security deposit returned \$360.00**

### **Relevant Submissions**

18. The landlord stated in paragraph 8 that the tenant paid a security deposit of \$360.00 on 31-March-2023 and he is still in possession of the deposit. The landlord is requesting to retain the security deposit against monies owed.

### **Analysis**

19. The landlord's claim for losses has been successful, paragraph 17, 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*

### **Decision**

20. The landlords' claim to retain the security deposit against monies owed succeeds in the amount of \$360.00

**Issue 4: Hearing expenses reimbursed \$20.00**

21. 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**

22. The tenant shall:

- Pay the landlord \$260.00 as follows:
  - Rent ..... \$600.00
  - Hearing expenses ..... 20.00
  - Security deposit applied ..... (360.00)
    - Total ..... \$260.00

The landlord

- Shall retain the security deposit of \$360.00.

July 12, 2023  
Date

  
Jacqueline Williams, Adjudicator  
Residential Tenancies Office