

## Residential Tenancies Tribunal

Application 2023-0619-NL

Decision 23-0619-00

Pamela Pennell  
Adjudicator

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### Introduction

1. Hearing was called at 1:57 p.m. on 14-September-2023.
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 reached someone by telephone, however that person discontinued the call at the start of the hearing. 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 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 they have been properly served. The tenant submitted an affidavit with his application stating that he had served the landlord with the notice of hearing electronically by email to; [REDACTED] on 11- August-2023 (TT#1). The tenant submitted proof of sent email (TT#2) and proof of email address (TT#3). In accordance with the *Residential Tenancies Act, 2018* this is good service. 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 their absence.
5. There was a written term rental agreement which commenced on 1-November-2020. The tenant vacated the unit on 25-June-2023. Rent was \$925.00 paid on the first of each month. A security deposit of \$637.50 was paid on 8-October-2020.

## Issues before the Tribunal

6. The tenant is seeking:
  - a. Refund of rent \$153.30
  - b. Refund of security deposit \$637.50
  - c. 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 are the following sections of the *Residential Tenancies Act, 2018*: Section 14; Security Deposit.

## Issue # 1: Refund of Rent \$153.30

### Tenant's Position

9. The tenant testified that he had a verbal agreement with the landlord to vacate the premises on 26-June-2023 (TT#4). The tenant stated that he vacated on 25-June-2023, one day earlier than agreed. The tenant stated that he paid his rent for the month of June prior to the agreement and only vacated early to help the landlord out. The tenant stated that he should not have to pay rent for the period of 25-June to the 30-June and he is seeking a refund of \$153.30 to cover 6 days.

## Analysis

10. I accept the tenant's claim that he agreed to vacate the premises early to help out the landlord and I find that the tenant in turn should not be expected to pay rent for the period of 26-June to 30-June as verbally agreed by both parties. A daily rate of rent has been calculated at \$30.41 ( $\$925.00 \times 12 \text{ mths} = \$11,100 / 365 \text{ days} = \$30.41 \text{ per day}$ ).
11. I find that the tenant is not responsible for rent for the period of 26-June to 30-June-2023 and as such, the landlord shall reimburse the tenant in the amount of \$152.05

## Decision

12. The tenant's claim for refund of rent succeeds in the amount of \$152.05.

## Issue #2: Refund of Security Deposit \$637.50

### Relevant Submission

13. The tenant is seeking a refund of the security deposit in the amount of \$637.50 and submitted a copy of the rental agreement as proof of payment (TT#5). Section 14 of the *Residential Tenancies Act, 2018* deals with security deposits, and the relevant subsections state:

### **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.*

14. In accordance with Section 14, the landlord has not made an application to the Landlord Tenancies Board to retain the security deposit and as such, the landlord shall return the security deposit to the tenant in the amount of \$637.50.

15. I find that the tenant is entitled to a refund of the security deposit.

#### **Decision**

16. The tenant's claim for refund of security deposit succeeds in the amount of \$637.50.

#### **Issue # 3: Hearing Expenses \$20.00**

17. The tenant paid an application fee of \$20.00 to Residential Tenancies and provided a copy of the receipt (TT#6).

18. As the tenant's claim has been successful, the landlord shall pay the \$20.00.

#### **Decision**

19. The tenant's claim for hearing expenses succeeds in the amount of \$20.00.

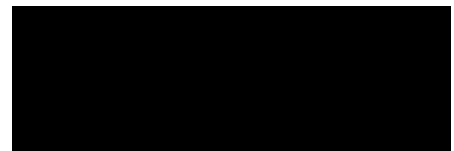
## Summary of Decision

20. The landlord shall pay the tenant \$809.55 as follows:

Refund of rent .....	\$152.05
Refund of security deposit .....	637.50
Hearing expenses .....	<u>20.00</u>
Total	<u>\$809.55</u>

September 27, 2023

Date



Pamela Pennell  
Residential Tenancies Office