

Residential Tenancies Tribunal

Application 2023-0725-NL

Decision 23-0725-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:46 p.m. on 31-August-2023.
2. The applicant, [REDACTED], represented by [REDACTED] and [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.

Preliminary Matters

4. The tenant submitted an affidavit with their application stating that they had served the landlord with the notice of hearing electronically by email to [REDACTED] on 18-August-2023 (TT#1). The respondent confirmed receiving the document on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There was a written term rental agreement that commenced on 10-August-2022. Rent was \$2000.00 per month. A security deposit of \$2000 was paid on 10-August-2022 (TT#2).

Issues before the Tribunal

6. The tenant is seeking:
 - a. Refund of Security Deposit \$2000.00

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: Refund of Security Deposit \$2000.00

Relevant Submission

9. The tenant submitted a copy of the rental agreement stating that a damage deposit of \$2000.00 had been paid on 10-August-2023 (TT#2). The landlord confirmed that he received the security deposit in that amount.

Analysis

10. 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.

11. I find that the landlord did not make an application to retain the security deposit or counter the tenant's application within the 10 day timeframe, and as such shall refund the security deposit to the tenant.
12. The tenant paid 100% of the monthly rental amount of \$2000.00 for the security deposit. According to Section 14(b) of the *Residential Tenancies Act, 2018* the landlord cannot demand a security deposit that is more than $\frac{3}{4}$ of the amount of rent payable, therefore I will consider \$1500.00 to be security deposit and the remaining \$500.00 will be considered rent paid.

Decision

13. The tenant's claim for refund of security deposit succeeds.

Summary of Decision

14. The landlord shall:

Pay the tenant \$2000.00 as follows:

Security deposit \$1500.00

Refund of rent 500.00

Total..... \$2000.00

September 6, 2023

Date



Pamela Pennell
Residential Tenancies Office