

Residential Tenancies Tribunal

Application 2023-1046-NL

Decision 23-1046-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:15 a.m. on 11-April-2024.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants” did not attend the hearing. [REDACTED], authorized representative attended by teleconference.
3. The respondents, [REDACTED] (respondent 1) and [REDACTED] (respondent 2), hereinafter referred to as “the landlords” did not attend the hearing.
4. The landlords were not present or represented at the hearing and I was unable to reach them by telephone 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 the hearing 10 clear days prior to the hearing date and, where the respondents fail 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 tenants submitted an affidavit with their application stating that they had served respondent 1 personally at; [REDACTED] (place of business) on 15-March-2024 (TT#1). The tenants submitted an affidavit with their application stating that they had served respondent 2 personally by giving it to his mother at; [REDACTED] (place of business) on 15-March-2024 (TT#2). The tenants testified that they were given the landlord’s address of business as their contact address for the purpose of communication. Also, *Residential Tenancies* received a telephone message from respondent 2 requesting possible mediation. For those reasons, I accept that respondent 2 received the document and in accordance with the *Residential Tenancies Act, 2018* this is good service. As the landlord’s were properly served, and as any further delay in these proceedings would unfairly disadvantage the tenants, I proceeded with the hearing in their absence.

Preliminary Matters

5. There was a verbal month-to-month rental agreement that commenced on 1-January-2020. The tenants vacated the premises on 26-September-2023. A

security deposit of \$350.00 was paid in advance on 29-August-2019 and is in the landlord's possession.

Issues before the Tribunal

6. The tenants are seeking:
 - Refund of security deposit \$350.00

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.

Item # 1: Refund of Security Deposit \$350.00

Relevant Submission

9. The tenant's representative testified that the landlords did not return the security deposit when the tenancy ended in September 2023. The tenants submitted a copy of a receipt showing proof of payment dated 29-August-2019 to support their claim (TT#3). See copy of receipt below:

Reçu de Received from [Redacted] Aug 29, 2019
- Three hundred and fifty - 100 Dollars
- Deposit on [Redacted]
\$ 350.00 No. [Redacted]
N° d'ent. de taxe Tax Reg. No. Cdg# 009
Bluebird, 2005

Tenant's Position

10. The tenant's representative stated that the landlords had no reason to retain the security deposit and they are seeking reimbursement in full with applicable interest.

Analysis

11. 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.
12. In accordance with Section 14 of the *Act* as stated above, the landlords did not return the security deposit to the tenants within 10 days and the landlords did not make an application to *Residential Tenancies* to retain the security deposit. For those reasons, I find that the tenants are entitled to have the security deposit returned to them in full, with applicable interest.
13. Pursuant to the *Residential Tenancies Act, 2018* the landlords must pay interest on a security deposit to a tenant(s) for the entire period that the landlords have had the security deposit. The interest is calculated as simple interest and is not compounded. The annual interest for 2020-2023 was 0% and is currently 1% for 2024.

Decision

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

Summary of Decision

15. The landlords shall pay the tenants \$350.98 as follows:

Refund of security deposit	\$350.00
Interest	0.98
Total	\$350.98

April 24, 2024
Date



Pamela Pennell
Residential Tenancies Office