

Residential Tenancies Tribunal

Application 2024-0027-NL

Decision 2024-0027-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 1:46 AM on 15 February 2024 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant", attended the hearing.
3. The respondent, [REDACTED], hereinafter referred to as "the landlord", attended the hearing.
4. The details of the claim were presented as a verbal monthly rental agreement with rent set at \$1,400.00, heat and light included, and due on the 1st of each month. There was a security deposit collected on this tenancy in the amount of \$400.00 on 8 August 2023 which remains still in the possession of the landlord. The tenant moved into the rental unit located at [REDACTED] on 1 September 2023 and vacated the rental in November 2023.
5. The landlord was personally served an Application for Dispute Resolution on 25 January 2024 at [REDACTED] by an individual with the first name "[REDACTED]" who the tenant described as her neighbor (**Exhibit T # 1**). The landlord did not dispute that he was served the Application for Dispute Resolution.
6. In a proceeding under the *Residential Tenancies Act*, 2018, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

Preliminary Matters

7. The tenant did not amend her application at the hearing. The tenant offered testimony and did not call any witnesses.
8. The landlord offered testimony during the hearing and did not call any witnesses.

Issues before the Tribunal

9. The tenant is seeking the following:

- An order for return of the security deposit in the amount of \$400.00.

Legislation and Policy

10. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*
11. Also relevant and considered in this case is S. 14,34, 35, and 42 of the *Residential Tenancies Act, 2018*.

Issue 1- Return of Security Deposit- \$400.00

Tenant Position

12. Along with her application, the tenant provided a copy of receipt for the security deposit dated 8 August 2023 (**Exhibit T # 2**). She was seeking a return of the security deposit plus interest.
13. The tenant testified during the hearing that the landlord issued the tenant an invalid notice in October 2023.

Landlord Position

14. The landlord testified he did provide the tenant a letter requesting her to vacate the rental. He stated the tenant moved out at the end of November 2023. Upon his entry in the rental after the tenant vacated, the landlord stated he observed some damage on the fridge of the rental unit which he attributed to “harsh cleaners” and he was not returning the security deposit due to the condition of the fridge. There was no evidence offered by the landlord to support his claim of damage.
15. The landlord stated he submitted a completed Application for Dispute Resolution on 14 February 2024 in relation to the alleged damages of the rental property.

Analysis

16. Section 14 of the *Residential Tenancies Act, 2018* is applicable to this hearing and application. As stated within 14 (10), “*Where a landlord believed 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*”.
17. As noted, in Section 14(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 direction under paragraph 10(b)".
Should a landlord fail to make an application in accordance with this section, the landlord
"shall return the security deposit to the tenant" as per section 14(12).

18. Upon review of the tenant's Application for Dispute Resolution (**Exhibit T # 3**), this piece of evidence is signed on 29 December 2023. Furthermore, the affidavit of service reveals the landlord was served on 25 January 2024. During the hearing, the landlord did not dispute this.
19. The landlord did not file Application for Dispute Resolution to determine the disposition of the security deposit within the required 10-day timeline after receiving the tenant's application.

Decision

20. The landlord shall return the security deposit of \$401.28 plus interest at the rate prescribed by the Security Deposit Interest Regulations to the tenant, as follows:

Security Deposit	\$400.00
2024 Interest – 1% $[\$400 * 1\% * (117/366 \text{ days})]$	<u>\$ 1.28</u>
	\$ 401.28

26 April 2024

Date

Michael J. Reddy
Residential Tenancies Office