

Residential Tenancies Tribunal

Application 2024-0198-NL

Decision 24-0198-00

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 9:20 a.m. on 23-May-2024.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants” attended by teleconference.
3. The respondent [REDACTED], hereinafter referred to as “the landlord” did not attend.

Preliminary Matters

4. The landlord was not represented at the hearing, I left the voicemail as 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 respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent’s absence so long as he has been properly served. The tenants submitted an affidavit with their application stating that they had served the landlord with the notice of hearing personally at Regional Office on 1-April-2024 (TT#1). 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 tenants, I proceeded with the hearing in their absence.
5. There was a written fixed term rental agreement that commenced on 1-October-2022 (TT#2). On 1-October-2023 the fixed term agreement converted to a month-to-month agreement under the same terms and conditions. Rent was \$918.00 per month, due on the last day of each month. The tenants vacated the premises on 25-January-2024. A security deposit of \$671.25 was paid in August 2022 and \$500.00 is still in the landlord’s possession.

Issues before the Tribunal

6. The tenants are seeking:
 - Refund of security deposit \$500.00 plus interest.

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 Security Deposit \$500.00 plus interest

Tenant's position:

9. The tenants testified that they paid a security deposit in the amount of \$671.25 on 19-August-2022 and they submitted a proof of payment (TT#3). The tenants testified that they vacated the rental unit on 25-January-2024. They also submitted a moving out inspection signed by residential manager (TT#4). The tenants submitted a proof of move out refund in the amount of \$171.25 (TT#5) and as such they are seeking the refund of security deposit in the amount of \$500.00 and security deposit interest.

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. Based on the evidence submitted by the tenants and according to the *Residential Tenancies Act, 2018* I find that the landlord is required to return the security deposit to the tenants.
12. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to the tenants for the entire period that the landlord has had the security deposit.

The interest is calculated as simple interest and is not compounded. The annual interest for 2022-2023 was 0% and is currently 1% for 2024.

Decision

13. The tenant's claim for a refund of the security deposit and interest succeeds in the amount of \$501.98.

Summary of Decision

14. The landlord shall refund the security deposit plus interest to the tenants in the amount of \$501.98 as follows:

Security deposit	\$500.00
Interest	1.98
Total	<u>\$501.98</u>

May 30, 2024
Date

Oksana Tkachuk, Adjudicator
Residential Tenancies Office