

## **Residential Tenancies Tribunal**

Application 2024-0226-NL

Michael Reddy  
Adjudicator

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### **Introduction**

1. The hearing was held at 1:46 PM on 16 April 2024 via teleconference.
2. The Applicant, [REDACTED], hereinafter referred to as "the tenant", attended. The applicant had a translator, [REDACTED], hereinafter referred to as "the translator".
3. The Respondent, [REDACTED], hereinafter referred to as "the landlord", attended the hearing.

### **Preliminary Matters**

4. The tenant submitted an affidavit with his application stating the landlord was served an Application for Dispute Resolution via electronic mail at [REDACTED] on 5 April 2024 at 3:42 PM (Exhibit T # 1). The landlord did not dispute this. In accordance with the *Residential Tenancies Act* (the *Act*), 2018, this is good service.
5. The details of the claim were presented as a written fixed-term rental agreement with rent set at \$600.00 pay own utilities with rent due on the first of each month. There was a security deposit collected on this tenancy in the amount of \$475.00 paid on 20 November 2023 and the tenant had taken occupancy of one of the bedrooms of the 5 bedroom rental at [REDACTED]. The tenant vacated the rental on 25 February 2024.
6. The tenant amended his application at the hearing to include applicable interest on the security deposit refund.

### **Issues before the Tribunal**

7. The tenant is seeking:
  - Validity of termination Notice
  - An order for refund of rent in the amount of \$150.00
  - A return of the Security Deposit of \$475.00 plus interest
  - An order for compensation in the amount of \$250.00

## **Legislation and Policy**

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*
9. Relevant and considered in this case is sections 14, 20, 21, 34, 35 and 42 of the *Residential Tenancies Act, 2018*. Also, sections 07-002, 9-04, 10-001, and 10-002, of the *Residential Tenancies Program Policy Manual*.

### **Issue 1: Validity of Termination Notice and Refund of Rent of \$150.00**

#### Tenant Position

10. The tenant testified via the translator and stated that due to ongoing concerns which the tenant experienced in the rental which included a bedbug infestation, on the 25 February 2024 he notified the landlord he would be vacating the rental unit. The tenant described the rental as being "uninhabitable" and expressed health concerns related to skin ailments he experienced from bed bugs. He testified that he had contacted the landlord about these concerns on more than one occasion, however the matter was not resolved. Along with his application, he provided pictures taken of his arms and legs (Exhibit T # 4). The tenant also provided a copy of the notification he had sent to the landlord on 25 February 2024 advising that he would be vacating the rental agreement (Exhibit T # 5).
11. The tenant testified via the translator that he had paid the monthly rent for February 2024 and vacated the rental property on 25 February 2024. He was seeking compensation in the amount of \$150.00 as he did not stay to the end of the rental period (29 February 2024), when he vacated a new tenant had taken occupancy of the rental.

#### Landlord Position

12. The landlord did not dispute that the tenant had contacted him on two occasions about concerns with bedbugs in January 2024 and on 25 February 2024. He testified he provided the tenant with bug spray to attempt to alleviate the problem.
13. Further, the landlord did not dispute the tenant paid rent for the month of February 2024. However, the landlord testified that the tenant disregarded the rental agreement which was a fixed-term lease agreement and the tenant owed him rent for March and April 2024 as he failed to provide a sufficient termination notice.
14. During the hearing, the landlord also testified that a new tenant was in occupancy of rental unit in question.

## **Analysis**

15. Section 21 of the Residential Tenancies Act is applicable in this instance. As stated within:

### **Notice where premises uninhabitable**

**21. (1)** Notwithstanding subsection 18(1) and paragraph 18(3)(a), where a landlord contravenes statutory condition 1 set out in subsection 10(1), the tenant may give the landlord notice that the rental agreement is terminated and the tenant intends to vacate the residential premises effective immediately.

.....

**(3)** In addition to the requirements under section 34, a notice under this section shall

- (a) be signed by the person providing the notice;
- (b) state the date on which the rental agreement terminates and the tenant intends to vacate the residential premises or the date by which the tenant is required to vacate the residential premises; and
- (c) be served in accordance with section 35.

Section 34 of the *Act* prescribes that, a notice under this Act shall

- (a) be in writing in the form prescribed by the minister;
- (b) contain the name and address of the recipient;
- (c) identify the residential premises for which the notice is given; and
- (d) state the section of this Act under which the notice is given.

16. The tenant issued the landlord his notice to vacate the rental on 25 February 2024 (Exhibit T # 5). While this was provided to the landlord via text message, which the *Act* identifies as one of the means of service of documents (Section 35), the notice does not meet the requirements as outlined in section 34, thereby rendering the notice invalid. As the notice is invalid, a determination as to whether the circumstances met the definition of uninhabitability is not required.
17. The tenant is seeking \$150.00 reimbursement of rent. Neither party disputes that rent for February 2024 was paid in full, or that the tenant vacated the premises on 25 February 2024. However, as the notice was invalid, the tenant is not entitled to any reimbursement of rent paid for the month of February.
18. Notwithstanding the above, it is noted that evidence provided demonstrates that the landlord secured another tenant by 1 March 2024. As the landlord successfully mitigated potential lost rental income due to insufficient notice, the tenant would not be liable beyond the month of February 2024.

## **Decision**

19. The tenant is not entitled to a refund of rent.

## **Issue 2: Refund of Security Deposit**

### Tenant Position

20. The tenant testified via the translator that he paid a security deposit of \$475.00 prior to taking occupancy of one bedroom at [REDACTED] and was seeking to have this returned to him. The tenant, through his translator, stated there was no reason

or evidence to suggest that he should not be provided his security deposit. Along with his application, the tenant provided evidence, dated 28 November 2023, of an interact e-transfer that \$450.00 (Exhibit T # 2).

### Landlord Position

21. The landlord during the hearing did not offer any insight or testimony for the security deposit to be held.

### **Analysis**

22. Section 14 of the *Act* is applicable and relevant to this issue. As noted in Section 14:

#### **Security Deposit**

**14 (7) A landlord shall credit interest to the tenant on the full amount or value of the security deposit, at the rate prescribed by the regulations, during the time the security deposit is held by the landlord.**

**(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 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.**

23. The tenant filed his Application for Dispute Resolution on 25 February 2024 (Exhibit T # 3), and vacated the same day. The landlord did not file an application within the identified timelines of the *Act* to claim for all or part of the security deposit.

24. Interest on security deposits can be calculated with reference to Policy 10-002 of the *Residential Tenancies Program, Policy- Interest Rates for Security Deposits*.

### **Interest Calculation**

Year	Number of Days	Rate	Amount	Interest
2023	(42 days / 365 days)	x 0.00%	x \$475	= \$0
2024	(57 days / 366 days)	x 1.00%	x \$475	= \$0.74
			Original Deposit	\$475
			+ Total Interest	\$0.74
			<b>Total</b>	<b>\$475.74</b>

## **Decision**

25. The landlord shall return the security deposit to the tenant in the amount of \$475.74.

### **Issue 3: Compensation for Inconvenience= \$250.00**

#### Tenant Position

26. The tenant was seeking compensation for inconvenience in the amount of \$250.00. Along with his application, the tenant provided a breakdown of the costs of buying new clothes items (Exhibit T # 6). The tenant testified via the translator that as a result of the bedbug infestation at [REDACTED], the tenant had to purchase new clothing which included a pair of jeans, underwear, a sweater and a shirt.

#### Landlord Position

27. The landlord disputed that he was responsible for the costs associated with the tenant having to purchase new clothing items.

#### **Analysis**

28. Both parties testified they were aware of bedbugs in the rental property. The tenant and the landlord stated there was multiple correspondence regarding this issue.

29. Statutory condition 1, as set out in section 10.(1) of the Residential Tenancies Act, 2018, requires that landlords maintain their rented premises in a good state of repair and fit for habitation during the course of the tenancy. A landlord can be deemed negligent where they fail to comply with that statutory condition, and that failure results in damage to the tenant's personal property. Policy 9-004, *Compensation for Damage to Tenant's Personal Property* of the *Residential Tenancies Program* presents the requirements of any claim for compensation. As defined in that policy, "*Where a landlord's negligence results in damage to a tenant's personal property, the landlord may be responsible for compensation the tenant for the costs of repairing or replacing that damaged property.*" I do not dispute or question that the tenant was negatively impacted by the bedbugs. What I do question is did the tenant provide all required evidence for his claim for compensation.

30. Evidence does suggest that the tenant notified that landlord of the situation and requested that the matter of bedbugs be addressed; however, it appears that the landlords response failed to rectify this situation. Nonetheless, as with all claims for compensation for damages, an applicant must also provide evidence of the costs incurred to repair or replace damaged items, as well as the condition and age of the damaged item. While the tenant provided a list of items for which he was claiming compensation, there were no evidence provided as to the condition and age of the damaged items or receipts of the items purchased. I find the tenant's claim does not provide all required evidence in relation to this issue.

## **Decision**

31. The tenant's claim for compensation for inconvenience fails.

### **Summary of Decision**

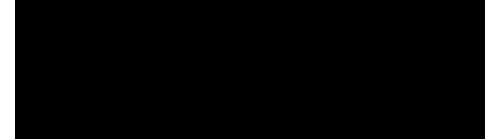
32. The landlord shall pay the tenant **\$475.74** as follows:

- Return of Security Deposit plus interest..... \$475.00
- Interest on Security Deposit .....0.74

34. The tenant's claims for rent refund and compensation for inconvenience fails.

11 July 2024

Date

  
Michael Reddy, Adjudicator  
Residential Tenancies Office