

Residential Tenancies Tribunal

Application 2024-0252-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:52 p.m. on 3-June-2024.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant" attended by teleconference.
3. The respondents, [REDACTED] (respondent 1) and [REDACTED] (respondent 2), hereinafter referred to as "the landlords" attended by teleconference.

Preliminary Matters

4. The tenant submitted an affidavit with her application stating that she had served the respondents with the notice of hearing electronically by email to: [REDACTED] on 4-April-2024 (TT#1). Respondent 1 confirmed receipt of the document on that date. Respondent 2 stated that she never received a copy of the document but agreed to waive service and proceed with the hearing. In accordance with the *Residential Tenancies Act. 2018*, this is good service.
5. There was a verbal rental agreement that commenced on 1-March-2019. The tenant vacated the unit on 29-February-2024. Rent was \$1150.00 per month, due on the first of each month. A security deposit of \$500.00 was paid in March 2019 and was refunded to the tenant on 4-April-2024.
6. The applicant amended the application to delete *refund of security deposit* as she received the monies on 4-April-2024 as noted in paragraph 5 above and to seek hearing expenses.

Issues before the Tribunal

7. The tenant is seeking:
 - Other (refund of rent paid) \$3300.00
 - Hearing expenses \$20.00

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. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 16: Rental Increase. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual*, Section 12-1: Recovery of Costs.

Item # 1: Other (Refund of Rent) \$3300.00

Relevant Submission

10. The tenant testified that she received an illegal rent increase of \$150.00 per month on 19-March-2022 effective 1-May-2022. The tenant stated that she is seeking a refund of the increase portion of her monthly rent for 22 months and she submitted a copy of the rental ledger to support the claim (TT#2). See breakdown of rental ledger below:

1-May-22	May Rent	\$ 1,000.00	\$ 1,150.00	\$ 150.00
1-Jun-22	June Rent	\$ 1,000.00	\$ 1,150.00	\$ 300.00
1-Jul-22	July Rent	\$ 1,000.00	\$ 1,150.00	\$ 450.00
1-Aug-22	August Rent	\$ 1,000.00	\$ 1,150.00	\$ 600.00
1-Sep-22	September Rent	\$ 1,000.00	\$ 1,150.00	\$ 750.00
1-Oct-22	October Rent	\$ 1,000.00	\$ 1,150.00	\$ 900.00
1-Nov-22	November Rent	\$ 1,000.00	\$ 1,150.00	\$ 1,050.00
1-Dec-22	December Rent	\$ 1,000.00	\$ 1,150.00	\$ 1,200.00
1-Jan-23	January Rent	\$ 1,000.00	\$ 1,150.00	\$ 1,350.00
1-Feb-23	February Rent	\$ 1,000.00	\$ 1,150.00	\$ 1,500.00
1-Mar-23	March Rent	\$ 1,000.00	\$ 1,150.00	\$ 1,650.00
1-Apr-23	April Rent	\$ 1,000.00	\$ 1,150.00	\$ 1,800.00
1-May-23	May Rent	\$ 1,000.00	\$ 1,150.00	\$ 1,950.00
1-Jun-23	June Rent	\$ 1,000.00	\$ 1,150.00	\$ 2,100.00
1-Jul-23	July Rent	\$ 1,000.00	\$ 1,150.00	\$ 2,250.00
1-Aug-23	August Rent	\$ 1,000.00	\$ 1,150.00	\$ 2,400.00
1-Sep-23	September Rent	\$ 1,000.00	\$ 1,150.00	\$ 2,550.00
1-Oct-23	October Rent	\$ 1,000.00	\$ 1,150.00	\$ 2,700.00
1-Nov-23	November Rent	\$ 1,000.00	\$ 1,150.00	\$ 2,850.00
1-Dec-23	December Rent	\$ 1,000.00	\$ 1,150.00	\$ 3,000.00
1-Jan-24	January Rent	\$ 1,000.00	\$ 1,150.00	\$ 3,150.00
1-Feb-24	February Rent	\$ 1,000.00	\$ 1,150.00	\$ 3,300.00

Tenants' Position

11. The tenant testified that she was given a notice of a rent increase on 19-March-2022 via text stating that her rent would increase by \$150.00 effective 1-May-2022. The tenant testified that she was not aware of the rate increase rules / guidelines until the following summer and when the landlords tried to increase her rent for the second time in

December 2023 with less than 1 months' notice, she refused to pay the increase. The tenant stated that both rent increases were illegal, and she is seeking to have the portion of the rent increase that she paid refunded to her in the amount of \$3300.00 for the period of 1-May-2022 to 29-February-2024 (\$150.00 x 22 months).

Landlord's Position

12. Respondent 2 did not dispute that they gave a notice of a rental increase without proper notice and testified that as landlords they were also unaware of the rental increase rules /guidelines as well as the tenant. Respondent 2 did however dispute that the tenant disagreed with the rent increase and stated that she entered into a mutual agreement with them and stated that they were never made aware that the tenant was unhappy with the agreement.

Analysis

13. Subsection 16(3)(b) of the *Residential Tenancies Act, 2018* states:

Rent increase

16(3). Where a landlord increases the amount of rent payable by a tenant, the increase shall be effective on the first day of a rental period, and the landlord shall give the tenant written notice of the increase

(b) not less than 6 months before the effective date of the increase where the residential premises is rented from month to month or for a fixed term.

14. I accept that both parties were unaware of the rules / guidelines surrounding rental increases on 19-March-2022, however that is no excuse as landlords and tenants have an obligation to familiarize themselves with the *Residential Tenancies Act, 2018*. The tenant never disputed the increase and testified that she became aware of the 6-month rule in the summer of 2023 but never brought it to the landlord's attention. Also, the landlords testified that they became aware of the 6-month rule around the same time, and they also failed to make the tenant aware. I find that the landlords contravened Section 16 of the Act as stated above and the tenant was entitled to a 6-month notice of the rent increase, but I also find that the tenant did not dispute the rent increase and entered into a mutual agreement with her landlords to pay the rent increase. Based on the circumstances of the situation, I find that it is reasonable to expect the landlords to refund the portion of the increase of rent that was paid within the first 6 months after the notice was given. The notice was given on 19-March-2022 which means that the increase should have come into effect on 1-October-2022. The tenant paid an additional rate of rent from April to September in the amount of \$750.00 and as such, I find that the landlords are responsible to reimburse the tenant for rent paid in the amount of \$750.00.

Decision

15. The tenant's claim for a refund of rent succeeds in the amount of \$750.00.

Issue # 2: Hearing expenses \$20.00

16. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and submitted a copy of the receipt (LL#3). In accordance with Section 12-1 of the *Residential Tenancies*

Policy, claimable costs may include the \$20.00 filing fee and as the tenant's claim has been partially successful, I find that the respondents shall pay the hearing expenses.

Decision

17. The landlord's claim for hearing expenses succeeds in the amount of \$20.00.

Summary of Decision

18. The landlords shall pay the tenant \$770.00 as follows:

Rent paid	\$750.00
Hearing expenses	20.00
Total	<u>\$770.00</u>

June 12, 2024

Date

Pamela Pennell, Adjudicator
Residential Tenancies Office