

Residential Tenancies Tribunal

Application 2024-0312-NL

Decision 24-0312-00

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 1:51 p.m. on 22-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” attended by teleconference.

Preliminary Matters

4. The tenants submitted an affidavit with their application stating that they had served the landlord with the notice of hearing electronically by email to; [REDACTED] on 1-May-2024 (TT#1). The landlord confirmed that the email address was correct, but he did not confirm receipt of the document on that date as he did not check the email. In accordance with the *Residential Tenancies Act, 2018*, this is good service, as the notice of hearing met all requirements as per section 35.
5. There was a written fixed term rental agreement that commenced on 1-December-2019, which has since converted to a month-to-month agreement under the same terms and conditions. The tenants vacated the premises on 28-September-2023. Rent was \$900.00 per month, due on the first of each month. A security deposit of \$450.00 was paid in September 2019 and is still in the landlord’s possession.

Issues before the Tribunal

6. The tenants are seeking:
 - Refund of security deposit \$450.00 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 \$450.00 plus interest

Tenant's position:

9. The tenants testified that they vacated the rental unit on 28-September-2023 and security deposit was never paid back. The tenants testified that the security deposit should be refunded, including security deposit interest.

Landlord's position:

10. The landlord testified that there were damages left by the tenants after they vacated the unit. He testified that he decided to use the security deposit in the amount of \$450.00 to repair the damages.

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. According to the *Residential Tenancies Act, 2018* the landlord is required to return the security deposit to the tenants unless the landlord has made an application to the director to claim for all or part of the security deposit.

13. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to 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 2019-2023 was 0% and is currently 1% for 2024.

Decision

14. The tenant's claim for a refund of the security deposit succeeds in the amount of \$451.77.

Summary of Decision

15. The landlord shall refund the security deposit plus interest to the tenants in the amount of \$ 451.77 as follows:

Security deposit	\$450.00
Interest	1.77
Total	<u>\$451.77</u>

May 28, 2024

Date

Oksana Tkachuk, Adjudicator
Residential Tenancies Office