

Residential Tenancies Tribunal

Application 2024-0438-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 1:47 p.m. on 18-July-2024.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant" attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as "the landlord" attended via teleconference.

Preliminary Matters

4. The tenant submitted an affidavit with her application stating that she had served the respondent with the notice of hearing electronically via email; [REDACTED] on 25-June-2024 (TT#1). The landlord agreed receiving the notice of the hearing on that day. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There was a written fixed term rental agreement that commenced on 7-August-2023 with the ending date of 6-August-2024. Rent was \$1000.00 per month, due on the seventh day of each month. The tenant vacated the premises on 9-June-2024. A security deposit of \$750.00 was paid on 28-July-2023 and is still in the landlord's possession.

Issues before the Tribunal

6. The tenant is seeking:
 - Refund of security deposit \$750.00 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 is the following section of the *Residential Tenancies Act, 2018*: Section 14; Security Deposit.

Issue # 1: Refund of Security Deposit \$750.00 plus interest

Tenant's position:

9. The tenant testified that she paid a security deposit in the amount of \$750.00 on 28-July-2023 to the landlord as per rental agreement (TT#2). The tenant testified that she vacated the rental unit on 9-June-2024 and the security deposit has not been returned to her. The tenant is seeking the refund of security deposit in the amount of \$750.00 plus interest.

Landlord's position:

10. The landlord has acknowledged that she is in possession of the security deposit. However, she contends that she does not owe any money to the tenant. The landlord stated that she has submitted a counterclaim alleging that the tenant caused damages to the unit during the tenancy. The landlord stated that she believes that she is entitled to retain the security deposit to cover the costs of repairing 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. In accordance with section 14 of the *Act* as stated above, the landlord did not return the security deposit within the 10-day time frame. Even though the landlord stated that she submitted a counter-application, it appears that no such application has been received by the Residential Tenancies Office. The tenant was able to show that she paid the security deposit and for those reasons I find that the landlord shall refund the security deposit to the tenant.

13. 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 2023 was 0% and is currently 1% for 2024.

Decision

14. The tenant's claim for refund of security deposit plus interest succeeds in the amount of \$754.12.

July 23, 2024
Date

Oksana Tkachuk, Adjudicator
Residential Tenancies Office