

Residential Tenancies Tribunal

Application 2024-0439-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 2:00 p.m. on 27-June-2024.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference. The applicant, [REDACTED], hereinafter referred to as “the landlord” gave the permission to [REDACTED] to represent him during this hearing.
3. The respondent, [REDACTED], hereinafter referred to as “the tenant” did not attend.

Preliminary Matters

4. The tenant was not present or represented at the hearing and I was unable to reach her 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 she has been properly served. The landlords submitted an affidavit with their application stating that they had served the tenant with the notice of hearing electronically by email; [REDACTED] on 4-June-2024 (LL#1). The landlords submitted a proof of sent email to support their claim (LL#2). In accordance with the *Residential Tenancies Act, 2018* the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlords, I proceeded with the hearing in her absence.
5. There was a written fixed term rental agreement which commenced on 1-February-2023 and the move out date was 31-May-2024. The tenant moved out on 30-April-2024. Rent was \$1500.00 per month due on the first of each month. A security deposit of \$750.00 was paid on 15-January-2023 and is in the landlord’s possession.
6. The applicants amended their claim to include hearing expenses.

Issues before the Tribunal

7. The landlords are seeking:
 - Rent paid \$2400.00.
 - Other expenses \$50.00.
 - Hearing expenses \$20.00.
 - Security deposit to be applied against monies owed \$750.00.

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 14: Security deposit, and Section 12-1 of the *Residential Tenancies Policy Manual*: Recovery of Costs.

Issue # 1: Rent paid \$2400.00

Relevant Submission

10. The landlord testified that rent is outstanding in the amount of \$2400.00 up to the end of April-2024. The landlords submitted a copy of the rental ledger to support the claim (LL#3).

Landlord's Position

11. The landlord stated that in May 2023 the tenant requested to pay rent biweekly. The landlord testified that rent is outstanding in the amount of \$900.00 for the month of March and \$1500.00 for the month of April. The landlords submitted a signed copy of the agreement by the tenant to show arrears in rent dated 30-April-2024 to support the claim (LL#4). The landlords are seeking rent to be paid in total amount of \$2400.00.

Analysis

12. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid under a rental agreement by a tenant during the use or occupancy of a residential premises. After considering the evidence and the landlords' testimony, I find that the tenant is responsible for the outstanding rent.

Decision

13. The landlord's claim for rent succeeds in the amount of \$2400.00.

Issue # 2: Other expenses \$50.00.

Landlords Position:

14. The landlord stated that upon the end of the tenancy, they found that the curtain rod in the living room was missing. It was a long curtain rod, and it was difficult to replace. The landlords mentioned that they informed the tenant about the missing curtain rod, and she promised to return it but never did. Since the curtain rod was in good condition, they are seeking \$50.00 reimbursement for the cost of the curtain rod.

Analysis

15. As the tenant was not present on the hearing, I accept the landlords' testimony that the curtain rod was missing. I find that the price the landlords are seeking for the long curtain rod is reasonable.

Decision

16. The landlord's claim for other expenses succeeds in the amount of \$50.00.

Issue # 3: Hearing expenses \$20.00.

Relevant Submission

17. The landlords paid \$20.00 for the application fee and are seeking the reimbursement. The landlords submitted a copy of the receipt to support the claim (LL#).

Analysis

18. In accordance with Section 12-1 of the *Residential Tenancies Policy Manual: Recovery of Costs*, claimable costs may include the \$20.00 filing. As the landlord's claim is successful, I find that the tenant is responsible for the hearing expenses.

Decision

19. The landlords claim for hearing expenses succeeds in the amount of \$20.00.

Issue # 4: Security deposit applied against monies owed \$750.00.

Analysis

20. Section 14 of the *Residential Tenancies Act, 2018* states:

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).*

21. The landlord's claim has been successful as per paragraph 12, 15 and 18 and as such the security deposit will be applied against monies owed.

Decision

22. The security deposit shall be applied against monies owed.

Summary of Decision

30. The tenant shall pay the landlords \$17200.00 as follows:

Rent	\$2400.00
Other expenses	\$50.00
Hearing expenses.....	\$20.00
Less Security Deposit	\$750.00
Total.....	<u>\$1720.00</u>

July 5, 2024
Date



Oksana Tkachuk, Adjudicator
Residential Tenancies Office