

Residential Tenancies Tribunal

Application 2024-0463-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 9:16 a.m. on 8-July-2024.
2. The applicant, [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “the landlords” did not attend.

Preliminary Matters

4. The landlords were not present or represented at the hearing, I left a voicemail as I was unable to reach them 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 they have been properly served. The tenant submitted an affidavit with her application stating that she had served respondent 2 with the notice of hearing personally at the residential premises on 24-June-2024 (TT#1). In accordance with the *Residential Tenancies Act, 2018* this is good service. As the landlord was properly served, and as any further delay in these proceedings would unfairly disadvantage the tenant, I proceeded with the hearing in her absence.
5. Respondent 1 shall be removed from the application as a new tenancy commenced with respondent 2 when the property was sold in 2021 and respondent 2 was the only person served, which is acceptable.
6. There was a verbal month-to-month rental agreement that commenced on 2-May-2019 with the original landlord – [REDACTED]. In 2021 the house was sold, and a new tenancy began between the tenant and the new landlord – [REDACTED]. Rent was \$500.00 per month, due on the first day of each month. The tenant vacated the premises on 2-December-2023. A security deposit of \$250.00 was paid in 2-May-2019 and is still in the landlord’s possession.

Issues before the Tribunal

7. The tenant is seeking:
 - Refund of security deposit \$250.00 plus interest.

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.

Issue # 1: Refund of Security Deposit \$250.00 plus interest

Tenant's position:

10. The tenant testified that she paid a security deposit in the amount of \$250.00 on 2-May-2019 to the original landlord and she submitted proof of payment (TT#2). The tenant testified that she vacated the rental unit on 2-December-2023 and the security deposit has not been returned to her. The tenant is seeking the refund of security deposit in the amount of \$250.00 plus interest.

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, nor did the landlord made the application to

retain the security deposit. 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 2019-2023 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 \$251.30.

July 11, 2024
Date



Oksana Tkachuk, Adjudicator
Residential Tenancies Office