

Residential Tenancies Tribunal

Application 2024-0549-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 2:00 p.m. on 22-August-2024.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
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 him 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 he has been properly served. The landlord’s representative submitted an affidavit with their application stating that they had served the tenant with the notice of the hearing electronically via emails; [REDACTED] and [REDACTED] and via text message on 31-July-2024 (LL#1). The landlord’s representative submitted proof of sent email. In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in his absence.
5. There was a written fixed term rental agreement that commenced on 1-March-2023 and converted into a month to month rental agreement, which was terminated on 31-May-2024. Rent was \$1650.00 per month due on the first of each month. A security deposit of \$1237.50 was paid on 13-February-2023 and is in landlord’s possession.
6. The landlord’s representative amended the application to include hearing expenses of \$20.00.

Issues before the Tribunal

7. The landlord is seeking:

- Rent paid \$1650.00;
- Damages \$680.00;
- Hearing expenses \$20.00;
- Security deposit of \$1237.50 to be applied against any monies owed.

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; Section 32: Abandoned personal property, and Sections of the *Residential Tenancies Policy Manual*: Section 6-2: Abandoned Personal Property and Section 12-1: Costs.

Issue # 1: Rent paid \$1650.00

Relevant Submission

10. The landlord's representative testified that rent is outstanding in the amount of \$1650.00. The landlord's representative submitted a copy of the rental ledger to support the claim (LL#2). See copy of ledger below:

1-Jan-24	Rent Due (Late)	\$ 1,650.00	\$ 1,650.00	
1-Feb-24	Rent Due	\$ 1,650.00	\$ 1,650.00	
1-Mar-02	Rent Due (Late)	\$ 1,650.00	\$ 1,650.00	
1-Apr-20	Rent Due	\$ 1,650.00	\$ 1,650.00	
1-May-20	Rent Due (NOT PAID)	\$ 1,650.00	\$ 1,650.00	\$ 1,650.00

Landlord's Position

11. The landlord's representative testified that rent is outstanding in the amount of \$1650.00 for the month of May. The landlord's representative stated that the tenant vacated the unit on 31-May-2024 and never paid rent for the month of May. The landlord is seeking rent to be paid in full.

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. Having considered the landlord's testimony, I accept it as credible and reliable. I find that the tenant is responsible for the payment of rent for the month of May.

Decision

13. The landlord's claim for rent succeeds in the amount of \$1650.00.

Issue #2: Compensation for Damages/ Losses \$680.00.

Relevant Submission

14. The landlord's representative stated that there were losses / inconveniences, and they submitted a ledger to support the claim. The landlord broke down the ledger into 3 sections to show the cost of losses caused by the tenant after leaving the rental unit. See copy of damages ledger below:

Applicant: [REDACTED]

Respondent: [REDACTED]

Item #	Description of Inconveniences	Compensation Claimed
1	Interior Cleaning	\$ 180.00
2	Garbage removal & dump runs	\$ 250.00
3	Removal and storage of furniture	\$ 250.00

Landlord's position:

15. The landlord's representative testified that the rental unit was left in an unclean and untidy condition, with the tenant's belongings and furniture abandoned in the premises. The landlord's representative stated that all necessary work was completed by [REDACTED] workers and the charge is solely reflecting only the cost of the services. The landlord's representative further asserted that the total cost of all losses/inconveniences is \$680.00, and their position on each item is as follows:

Item #1: Interior cleaning \$180.00 – The landlord's representative claimed that entire house required through cleaning. He stated that it took a cleaner 9 hours to clean three bedrooms, two bathrooms, the kitchen, and other areas of the property. Given the extent of the work required. The landlord's representative stated that the cleaning cost of \$180.00 is reasonable, as the cleaning was done internally by a cleaner from [REDACTED], and they charged \$20.00 per hour. The landlord's representative submitted photos to support their claim (LL#3).

Item #2: Garbage removal & dump runs \$250.00 – The landlord's representative stated that numerous interior items that were in bad condition, including furniture, dressers, couches, and exterior patio furniture were left abandoned in the rental unit by the tenant along with significant amount of garbage. He stated that it took two people four hours to remove the garbage and old pieces of furniture from the property. The landlord's representative stated that they had to take 2 truckloads of garbage and make two rides to the dump. The landlord's representative stated that the \$250.00 charge for this work is reasonable, and it was done internally by workers from their company.

Item #3: Removal and storage of furniture \$250.00 – The landlord's representative stated that they used their own U-Haul for storing tenant's furniture that he left in the rental unit. He explained that they have been storing a bedroom set, children's items and other furniture in good condition for three months now. The landlord's representative stated that typically they charge around \$700.00 per month for storage items like that in their U-Haul and given these circumstances, he argued that the \$250.00 charge being sought for both the removal and storage of the furniture for 3 months.

Analysis

16. I accept landlord's testimony, as the tenant was not present to dispute the landlord's claim. For the purpose of this decision, the items are analyzed as follows:

Item #1: Interior cleaning \$180.00 - The landlord's representative claimed that entire house required through cleaning. He stated that it took a cleaner 9 hours to clean three bedrooms, two bathrooms, the kitchen, and other areas of the property. Based on the landlord's testimony and photos of the rooms, I agree that the house was left in uncleaned condition, and it took 9 hours to be cleaned. I find that the charge of \$20.00 per hour is reasonable for cleaning. I accept that it cost the landlord \$180.00 to have the unit cleaned, and as such I find that the tenant is responsible for the cleaning costs at \$180.00.

Item #2: Garbage removal & dump runs \$250.00 - The landlord's representative stated that numerous interior items in bad condition, including furniture, dressers, couches, and exterior patio furniture were left abandoned in the rental unit by the tenant along with significant amount of garbage. I accept the landlord's testimony that it took two people four hours to remove the garbage and old pieces of furniture from the property and that they had to make two truckloads of garbage and must make two dump rides. For those reasons I find that the tenant is responsible for the garbage removal and dump rides costs at \$250.00.

Item #3: Removal and storage of furniture \$250.00 – Section 32 of *The Residential Tenancies Act* states:

Abandoned personal property

32. (1) Where a tenant abandons or vacates a residential premises and leaves personal property on the residential premises, the landlord shall either

- (a) remove the personal property and immediately place it in safe storage; or
- (b) store the personal property on the residential premises in a safe manner.

(2) The personal property stored under subsection (1) shall be stored for not less than 30 days unless the tenant takes possession of the personal property before the 30 days have elapsed.

(3) A landlord who stores a tenant's personal property under subsection (1) shall, at the earliest reasonable opportunity,

- (a) provide the director with an inventory of the property; and
- (b) provide the tenant with a copy of the inventory, if the landlord can locate the tenant.

(4) The director may, on application by the landlord under section 42, authorize the landlord to dispose of personal property referred to in subsection (1) where the director believes on reasonable grounds that

- (a) the personal property has no monetary value;
- (b) the cost of removing, storing or selling the personal property would be more than the proceeds of the sale; or
- (c) the storage of the personal property would be unsanitary or unsafe.

(5) This section does not apply where a landlord and a tenant have made an agreement in writing with respect to the storage of the tenant's personal property.

(6) The tenant or owner of the personal property may, within the 30 day period referred to in subsection (2), claim and take possession of the personal property by paying the landlord the costs reasonably incurred by the landlord to remove and store the property.

(7) Where a landlord stores personal property on the residential premises in accordance with subsection (1), the storage costs referenced in subsection (6) shall be the lesser of the standard rate charged by public storage facilities or the rental rate of the residential premises.

(8) Where a tenant or owner takes possession of personal property within the 30 day period, the landlord shall notify the director at the earliest reasonable opportunity.

(9) Where a tenant or owner does not take possession of personal property within the 30 day period, the landlord may sell the personal property subject to the terms and conditions set by the director.

....

The landlord's representative stated that they used their own U-Haul for storing tenant's furniture that he left in the rental unit for 3 months. He explained that they have been storing a bedroom set, children's items, and other furniture in good condition. The landlord's representative stated they are seeking \$250.00 charge for the removal and storage of the furniture for 3 months. According to the residential Tenancies Act as stated above, the landlord is required to store the tenant's personal property for a period of 30 days. Based on this, I find that the landlord will be granted \$83.33 for the one month of storage.

Decision

17. The landlord's claim for damages / losses succeeds in the amount of \$513.33.

Issue # 3: Hearing expenses \$20.00.

Relevant Submission

18. The landlord paid \$20.00 for the application fee and is seeking reimbursement. The landlord's representative submitted a copy of the receipt to support the claim (LL#4).

Analysis

19. In accordance with Section 12-1 of the *Residential Tenancies Policy Manuel*: Costs, and as the landlord's claim was successful as per paragraphs 13 and 17, the landlord will be awarded with \$20.00 filing fee.

Decision

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

Issue #4 Security deposit applied against monies owed \$1237.50

Analysis

21. 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).
22. The landlord's claim has been successful as per paragraphs 13, 17 and 20 and as such, the security deposit shall be applied against monies owed. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to tenant 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 in 2023 was 0% and is currently 1% for 2024.

Decision

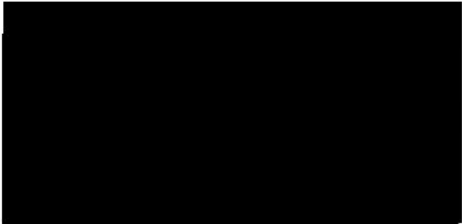
23. The landlord's claim for security deposit plus interest in the amount of \$1245.48 to be applied against monies owed succeeds.

Summary of Decision

24. The tenant shall pay the landlord \$937.85 as follows:

Rent paid	\$1650.00
Damages/Loses	513.33
Hearing expenses.....	20.00
Less security deposit plus interest	1245.48
Total.....	\$937.85

August 28, 2024
Date


Oksana Tkachuk
Residential Tenancies Office