

Residential Tenancies Tribunal

Application 2024-0705-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 9:12 a.m. on 16-August-2024.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as "the tenants" did not attend.

Preliminary Matters

4. I reached respondent 1 and she indicated that they both are not willing to participate in the hearing. The landlord submitted two affidavits with his application stating that he had served the tenants with the notice of the hearing electronically by emails to: [REDACTED], [REDACTED], [REDACTED] on 1-August-2024 (LL#1). As the tenants were 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 term rental agreement that commenced on 1-June-2021 until 31-May-2022 and became a month-to-month rental agreement, which terminated on 8-August-2024. Rent was \$845.00 per month due on the first of each month. The security deposit in the amount of \$420.00 was collected on 29-May-2021 and is in the landlord's possession.
6. The issue of vacant possession was already determined in our previous decision 2024-0601-NL, where the landlord was granted an order for vacant possession. As this matter has already been resolved, we will not be revisiting it today.
7. The landlord amended the application to increase the amount of rent from \$4717.50 as per application to \$5562.50 to include rent for the month of August and to apply the security deposit of \$420.00 against outstanding amount owed.

Issues before the Tribunal

8. The landlord is seeking:

- Rent paid \$5562.50;
- Security deposit of \$429 to be applied against any monies owed.

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.

10. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 14: Security deposit.

Issue # 1: Rent Paid \$5562.50

Landlord's Position

11. The landlord stated that the rent is outstanding in the amount of \$5562.50 including month of August. The landlord is seeking rent to be paid in full. The landlord submitted a rental ledger to support the claim (LL#2).

1-Nov-20	November Rent	\$ 845.00	\$ 0.00	\$ 845.00
2-Nov-20	Payment	\$ 0.00	-\$ 422.50	\$ 422.50
17-Nov-20	Payment	\$ 0.00	-\$ 200.00	\$ 222.50
30-Nov-20	Payment	\$ 0.00	-\$ 522.50	-\$ 300.00
1-Dec-20	December Rent	\$ 845.00	\$ 0.00	\$ 545.00
28-Dec-20	Payment	\$ 0.00	-\$ 570.00	-\$ 25.00
1-Jan-20	January Rent	\$ 845.00	\$ 0.00	\$ 820.00
2-Jan-20	Payment Refund - Overpayment	\$ 0.00	\$ 25.00	\$ 845.00
5-Jan-20	Payment	\$ 0.00	-\$ 300.00	\$ 545.00
5-Jan-20	Payment	\$ 0.00	-\$ 80.00	\$ 465.00
11-Jan-20	Payment	\$ 0.00	-\$ 45.00	\$ 420.00
22-Jan-20	Payment	\$ 0.00	-\$ 200.00	\$ 220.00
22-Jan-20	Payment	\$ 0.00	-\$ 200.00	\$ 20.00
25-Jan-20	Payment	\$ 0.00	-\$ 22.50	-\$ 2.50
1-Feb-20	February Rent	\$ 845.00	\$ 0.00	\$ 842.50
20-Feb-20	Payment	\$ 0.00	-\$ 350.00	\$ 492.50
1-Mar-20	March Rent	\$ 845.00	\$ 0.00	\$ 1,337.50
1-Apr-20	April Rent	\$ 845.00	\$ 0.00	\$ 2,182.50
1-May-20	May Rent	\$ 845.00	\$ 0.00	\$ 3,027.50
1-Jun-20	June Rent	\$ 845.00	\$ 0.00	\$ 3,872.50
1-Jul-20	July Rent	\$ 845.00	\$ 0.00	\$ 4,717.50

Analysis

12. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid under a rental agreement by tenants during the use or occupancy of a residential premises. Payment for the month of August is amended to show a daily rate for that month as the tenants moved out on 8-August-2024 (see below). I find that the tenants are responsible for outstanding rent for the period of January 2024 to 8-August-2024, in the amount of \$4939.14. See amended ledger below:

Amended Rental Ledger 2024-0705-NL			
Date	Action	Amount	Total
December 31, 2023	Balance	\$0.00	
January 1, 2024	Rent due	\$845.00	\$845.00
January 5, 2024	Payment	-\$380.00	\$465.00
January 11, 2024	Payment	-\$45.00	\$420.00
January 22, 2024	Payment	-\$400.00	\$20.00
January 25, 2024	Payment	-\$22.50	-\$2.50
February 1, 2024	Rent due	\$845.00	\$842.50
February 20, 2024	Payment	-\$350.00	\$492.50
March 1, 2024	Rent due	\$845.00	\$1,337.50
April 1, 2024	Rent due	\$845.00	\$2,182.50
May 1, 2024	Rent due	\$845.00	\$3,027.50
June 1, 2024	Rent due	\$845.00	\$3,872.50
July 1, 2024	Rent due	\$845.00	\$4,717.50
August 1-8, 2024	Rent due	\$221.64	\$4,939.14

Daily rate: \$845.00 x 12 mths = \$10140.00

\$10140.00 / 366 days = \$27.70 per day

Decision

13. The landlord's claim for rent succeeds in the amount of \$4939.14.

Issue #4 Security deposit applied against monies owed \$420.00

Analysis

14. 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).

15. The landlord's claim for losses has been successful as per paragraph 13 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 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 in 2021-2023 was 0% and is currently 1% for 2024.

Decision

16. The landlord's claim for security deposit plus interest in the amount of \$ 422.64 to be applied against monies owed succeeds.

Summary of Decision

17. The tenants shall pay the landlord \$4516.50 as follows:

Rent paid \$4939.14
Less security deposit plus interest **\$422.64**

Total \$4516.50

August 21, 2024

Date

Residential Tenancies Office