

Residential Tenancies Tribunal

Application 2024-0708-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 2:00 p.m. on 29-August-2024.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the landlord” did not attend.

Preliminary Matters

4. The landlord 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 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 tenants submitted an affidavit with their application stating that they had served the landlord with the notice of hearing via pre-paid registered mail ([REDACTED]) and electronically by email to; [REDACTED] on 1-August-2024 (TT#1). The tenants were able to show poof of the sent email (TT#2) and the email address was confirmed from Part 2 of the landlord’s application (2024-0702-NL). 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 tenants, I proceeded with the hearing in his absence.
5. There was a written term rental agreement that commenced on 15-June-2023. The tenants vacated the unit on 15-July-2024. Rent was \$1200.00 per month, due on the 15th of each month. A security deposit of \$900.00 was paid on 1-May-2023 and is in the landlord’s possession.

Issues before the Tribunal

6. The tenants are seeking:
 - Refund of security deposit \$900.00
 - Hearing Expenses \$24.59

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*. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 14: Security Deposit. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual*: 12-1: Recovery of Costs.

Issue # 1: Refund of Security Deposit \$900.00.

Analysis

8. 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).
9. The landlord did not refund the security deposit to the tenants within the 10-day timeframe as outlined in Section 14 above. I accept that the tenants paid the security deposit in the amount of \$900.00 as stated in Part 4 of the landlord's application (2024-0702-NL). As the security deposit is not an asset of the landlord, I find that the landlord shall refund the security deposit to the tenants.
10. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to a tenant(s) 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

11. The tenant's claim for *refund of security deposit* succeeds.

Issue # 2: Hearing Expenses \$24.59

12. The tenant's incurred postal fees for the purpose of service in the amount of \$14.48 and also purchased a USB stick at the cost of \$10.11 for the purpose of submitting evidence

to support their claim. The tenant's submitted copies of receipts to support the claim (TT#3). Section 12-1 of the *Residential Tenancies Policy* states that in general, claimable costs may include the costs incurred in the preparation for a hearing, such as registered mail and USB drives. As the tenant's claim has been successful, the landlord shall pay the hearing expenses.

Decision

13. The tenant's claim for *hearing expenses* succeeds in the amount of \$24.59.

Summary of Decision

14. The landlord shall pay the tenants \$930.54 as follows:

Refund of Security Deposit.....	\$900.00
Interest	5.95
Hearing expenses	24.59
Total	\$930.54

September 3, 2024
Date



Pamela Pennell, Adjudicator
Residential Tenancies Office