

Residential Tenancies Tribunal

Decision 19-0912-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 am on 28 January 2020 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as "tenant1" and "tenant2", respectively, participated in the hearing. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as "landlord1" and "landlord2", also participated.

Issues before the Tribunal

3. The tenants are seeking an order for a refund of the security deposit in the amount of \$1500.00.

Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case is section 14 of the *Residential Tenancies Act, 2018*.

Issue 1: Refund of Security Deposit - \$1500.00

Relevant Submissions

The Tenant's Position

6. The landlords and the tenants entered into a 1-year, fixed-term rental agreement on 01 June 2019 and a copy of the "Offer to Lease" was submitted with the tenant's application (█ #1). The agreed rent was set at \$1500.00 per month and the tenants stated that they had paid a security deposit of \$1500.00.
7. The tenants terminated their agreement on 16 November 2019 and vacated on that date.
8. The tenants stated that the landlords had not returned the security deposit to them after they moved out and they testified that they had not entered into any written agreement with the landlords on its disposition.
9. They are seeking an order for a return of the full amount of that deposit.

The Landlord's Position

10. Landlord1 stated that the tenants vacated on 22 November 2019.
11. She stated that the tenants had caused damage to the rental unit and that they had removed the Vivint security system from the property when they moved in without her permission.
12. Landlord1 agreed with the tenants that there was no written agreement on the disposition of the security deposit and she testified that she had not filed an application with Residential Tenancies seeking a determination of its disposition.

Analysis

13. 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.

14. There is no dispute that the tenants had paid a security deposit of \$1500.00 when they moved into the property. There is also no dispute that the landlords have not returned that deposit to the tenants and that they had not entered into any written agreement on its disposition.
15. As the landlords have not made an application to the Director of Residential Tenancies to determine the disposition of the security deposit, they are required, as per subsection 14.(12), to refund the full amount of the security deposit to the tenants.

Decision

16. The tenants' claim for refund of the security deposit succeeds in the amount of \$1500.00.

30 April 2020

Date

John R. Cook
Residential Tenancies Tribunal