

Residential Tenancies Tribunal

Decision 20-0163-05

John. R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 am on 05 August 2020 via teleconference.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as "tenant1" and "tenant2", respectively, participated in the hearing. The respondent, [REDACTED], hereinafter referred to as "the landlord", also participated.

Issues before the Tribunal

3. The tenants are seeking an order for a refund of the security deposit in the amount of \$600.00.

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 - \$600.00

Relevant Submissions

The Tenants' Position

6. Tenant1 stated that they had entered into a 1-year, fixed-term rental agreement with the landlord in September 2019 and a copy of the executed lease was submitted with their application. The agreed rent was set at \$1200.00 per month

and it is acknowledged in the lease that the tenants had paid a security deposit of \$600.00 on 07 September 2019.

7. Tenant1 stated that on 02 December 2019 he sent a text-message and an e-mail to the landlord informing her that he was terminating their rental agreement and that they would vacate by the end of December 2019. They vacated on 19 December 2019.
8. Tenant1 stated that the landlord has not returned the security deposit to them after they moved out of the rented premises and he testified that they have not entered into any written agreement on its disposition.
9. The tenants are seeking an order for a refund of the security deposit in the amount of \$600.00.

The Landlord's position

10. The landlord acknowledged that she had not returned the security deposit and that she had not entered into any written agreement with the tenants on the disposition of the deposit.
11. She also acknowledged that he had not made application to the Director seeking authorization to retain the deposit. She stated that she was under the impression that she could make such an application at the hearing.

Analysis

12. 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.

13. It is not disputed that the tenants had paid a security deposit of \$600.00 and that it has not been returned to them. It is also not disputed that the landlord and tenants had not entered into any written agreement on the disposition of that deposit.
14. As the landlord has not made an application to the Director of Residential Tenancies to determine the disposition of the security deposit, she is required, as per subsection 14.(12) of the Act, to refund the full amount of the security deposit to the tenants.

Decision

15. The tenants' claim for refund of the security deposit succeeds in the amount of \$600.00.

01 October 2020

Date

[Redacted]
John R. Cook
Residential Tenancies Tribunal