

Residential Tenancies Tribunal

Decision 20-0217-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:05 am on 24 July 2020 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant", participated in the hearing. The respondent, [REDACTED], hereinafter referred to as "the landlord", also participated.

Issues before the Tribunal

3. The tenant is seeking an order for a refund of the security deposit in the amount of \$300.00.

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 - \$300.00

Relevant Submissions

The Tenants' Position

6. The tenant stated that he had entered into a 1-year, fixed-term rental agreement with [REDACTED] on 01 May 2018 and a copy of that executed agreement was submitted with his application. The agreed rent was set at \$950.00 per month.

7. It is acknowledged in the lease that the tenant had paid a security deposit of \$300.00 and the tenant had also submitted a copy of a receipt, dated 20 April 2018, and signed by [REDACTED], indicating that the tenant had paid that amount to the [REDACTED].
8. On 13 November 2019 [REDACTED] purchased the property from [REDACTED] and he became the tenant's new landlord. The tenant started forwarding his rent to him after that date.
9. On 15 March 2020 the tenant issued the landlord a termination notice and he vacated the property on 15 April 2020.
10. The tenant stated that the landlord had not returned the security deposit to him after he vacated the unit and he testified that he had not entered into any written agreement with him on its disposition.
11. The tenant is seeking an order for a refund of that security deposit in the amount of \$300.00.

The Landlord's position

12. The landlord acknowledged that he had not returned the security deposit and that he had not entered into any written agreement with the tenant on the disposition of the deposit.
13. He also acknowledged that he had not made application to the Director seeking authorization to retain the deposit.
14. The landlord stated that he had retained the security deposit because he had discovered that some damages had been caused to the walls in the rental unit during this tenancy.

Analysis

15. 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.*

16. It is not disputed that the tenant had paid a security deposit of \$300.00 and that it has not been returned to him. It is also not disputed that the landlord and tenant had not entered into any written agreement on the disposition of that deposit.
17. As the landlord has not made an application to the Director of Residential Tenancies to determine the disposition of the security deposit, he is required, as per subsection 14.(12) of the Act, to refund the full amount of the security deposit to the tenant.

Decision

18. The tenant's claim for refund of the security deposit succeeds in the amount of \$300.00.

30 September 2020

Date

John R. Cook
Residential Tenancies Tribunal