

Residential Tenancies Tribunal

[REDACTED] Decision 20-0411-05

Michael Greene
Adjudicator

Introduction

1. The hearing was called at **1:30 pm on 10 November 2020** at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador. It was conducted by teleconference through the Bell Alliant Conferencing system.
2. The applicant, [REDACTED] ([REDACTED]), hereafter referred to as the tenant, participated in the hearing. *(Affirmed)*
3. The respondent, [REDACTED] ([REDACTED]), hereafter referred to as the landlord, participated in the hearing. *(Affirmed)*
4. The details of the claim were presented as a written monthly rental agreement with rent set at \$500.00 per month with utilities included and due on the 1st of each month. A security deposit in the amount of \$300.00 was collected on the tenancy on or about August 2018. A verbal termination notice was issued on this tenancy by the tenant and she vacated on 29 August 2020.
5. In a proceeding under the *Residential Tenancies Act, 2018*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

Preliminary Matters

6. The affidavit submitted by the tenant show that the landlord was served with the notice of this hearing on the **07 October 2020** by serving the documents electronically to the email address: [REDACTED] and provided a response from the landlord showing the address above. The landlord filed a claim outside the 10 day requirement.
7. There was no counterclaim filed by the landlord within the required time frames set out in section 14 (11) of the *Residential Tenancies Act, 2018*.

Issues before the Tribunal

8. The tenant is seeking the following:
 - a) Refund of Security Deposit **\$300.00**;

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in the *Residential Tenancies Act, 2018 (the Act)*, Section 47.
10. Also relevant and considered in this case are Sections 14, 34 and 35 of *the Act*, and Policy 12-1: *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*.

Issue 1: Refund of Security Deposit - \$300.00

Relevant Submissions

Tenant Position

11. The tenant had entered into a written rental agreement (**Exhibit L#1**) with the landlord which commenced on 01 September 2018 for the property address of [REDACTED] [REDACTED]. The agreed rent was set at \$500.00 per month and due on the 1st day of each month. There was a security deposit in the amount of \$300.00 was paid on 31 August 2018 which was confirmed by the landlord.

Landlord Position

12. The landlord acknowledged receiving the security deposit from the tenant. The landlord testified that he is holding the security deposit because of damages. The landlord acknowledges that the submission of his claim was not in time to be

considered a counter claim under section 14 of the *Residential Tenancies Act, 2018*. He added that a claim for damages was filed and served.

Analysis

13. I have reviewed the testimony and evidence of the tenant and landlord in this matter. As far as I can see, there is 1 issue here that needs to be addressed: (i) did the tenant pay a security deposit.
14. Interest rates for security deposits being held in the years 2018 - 2020 are set at 0% and as such zero interest has accrued on this deposit.
15. Payment of the security deposit in the amount of \$300.00 was acknowledged by the landlord in this matter. The landlord acknowledged that there was no counterclaim filed by the landlord within the 10 day time frame provided in Section 14 (10) & (11) of the *Residential Tenancies Act, 2018* in order for the landlord to have a claim against the security deposit. This failure of the landlord to file a counterclaim within the time limits does not prohibit the landlord from filing a future claim for a loss, however, the landlord no longer has a claim against the security deposit and shall return the deposit to the tenant.

Decision

16. The tenant's claim for refund of security deposit succeeds:
 - a) Refund of Security Deposit \$300.00

Summary of Decision

17. The tenant is entitled to the following:
 - a) Refund of Security Deposit \$300.00

21 December 2020

Date


Michael Greene
Residential Tenancies Tribunal