

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0321-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:05 PM 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 the following an order for a refund of the security deposit in the amount of \$320.00.

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: Security Deposit - \$320.00

Relevant Submissions

The Tenant’s Position

6. The tenant stated that he had entered into a 1-year, fixed-term rental agreement with the landlord on 01 March 2021 and a copy of that executed lease was submitted with his application ([REDACTED] #1).

7. The agreed rent was set at \$500.00 and the tenant submitted copies of 2 INTERAC e-Transfer receipts (████#2) showing that he had paid a total security deposit of \$320.00.
8. In June 2021 the tenant issued the landlord a termination notice and he vacated the property on 16 June 2021.
9. The tenant stated that the landlord had not returned the security deposit to him after he vacated and he testified that he had not entered into any written agreement with the landlord on its disposition.
10. The tenant is seeking an order for a return of the security deposit in the amount of \$320.00.

The Landlord's Position

11. The landlord acknowledged that the tenant had paid a \$320.00 security deposit and that she had not returned it to him. She claimed that she retained that deposit because the tenant had paid no rent for June 2021.
12. The landlord also agreed with the tenant that she had not entered into any written agreement with him on the disposition of the security deposit and she stated that she had not filed an application with this Section to determine 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) Where a landlord does not make an application under subsection (11), he or she is not prohibited from making an application under section 42 other than an application with respect to a claim against the security deposit.

14. There is no dispute that the tenant had paid a security deposit of \$320.00 and that the landlord had not returned it to him
15. It is also not disputed that the landlord and tenant had not entered into any written agreement on the disposition of that deposit and that the landlord had not made an application to the Director of Residential Tenancies to determine its disposition.
16. Accordingly, as per subsection 14.(12) of the Act, the landlord is required, to refund the full amount of the security deposit to the tenant.

Decision

17. The tenant's claim for refund of the security deposit succeeds in the amount of \$320.00.

05 May 2022

Date

