

Residential Tenancies Tribunal

Decision 20-0096-05

John. R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 am on 10 March 2020 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
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 \$450.00.

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 - \$450.00

Relevant Submissions

The Tenants' Position

6. The tenant stated that she had entered into a 1-year, fixed-term rental agreement with the landlord on 15 June 2019 and a copy of that agreement was submitted by the landlord at the hearing ([REDACTED] #1). The agreed rent was set at \$900.00 per

month and it is acknowledged in the lease that that the tenant had paid a security deposit of \$450.00.

7. The tenant stated that on 26 January 2020 she issued the landlord a termination notice, indicating that she would be vacating on 31 January 2020. She moved out on that date.
8. The tenant stated that the landlord had not returned the deposit to her after she vacated and she testified that she had not entered into any written agreement with the landlord on its disposition. The tenant is seeking an order for a refund of the full amount of that deposit.

The Landlord's position

9. 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.
10. He also acknowledged that he had not made application to the Director seeking authorization to retain the deposit.

Analysis

11. 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.

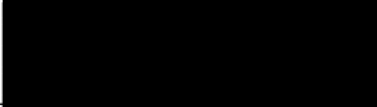
12. It is not disputed that the tenant had paid a security deposit of \$450.00 and that it has not been returned to her. It is also not disputed that the landlord and tenant had not entered into any written agreement on the disposition of that deposit.
13. As the landlord has not made an application 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

14. The tenant's claim for refund of the security deposit succeeds in the amount of \$450.00.

05 June 2020

Date



John R. Cook
Residential Tenancies Tribunal