

Residential Tenancies Tribunal

Decision 20-0391-05

Michael Greene
Adjudicator

Introduction

1. The hearing was called at **1:30 pm** on **22 October 2020** at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador and via Bell Teleconferencing System.
2. The applicant, [REDACTED], hereafter referred to as tenant1, participated in the hearing. (*Affirmed*).
3. The applicant, [REDACTED], hereafter referred to as tenant2, participated in the hearing. (*Affirmed*).
4. The respondent, [REDACTED], hereafter referred to as landlord1, participated in the hearing. (*Affirmed*).
5. The respondent, [REDACTED], hereafter referred to as landlord2, participated in the hearing. (*Affirmed*).
6. The details of the claim were presented as a written monthly agreement with rent set at \$850.00 per month, due on the 1st of each month and a security deposit in the amount of \$425.00 was collected on or about 05 December 2019.
7. In a proceeding under the *Residential Tenancies Act*, 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

8. The tenants in this matter waived their right of 10 days of service of the claim documents and chose to continue with the hearing.

Issues before the Tribunal

9. The tenants are seeking the following:
 - a) Refund of security Deposit **\$425.00**;
 - b) Hearing expenses.
10. The landlords are seeking the following:
 - c) Payment of rent owing **\$850.00**;
 - d) Hearing expenses.

Legislation and Policy

11. The jurisdiction of the Director of Residential Tenancies is outlined in the *Residential Tenancies Act, 2018 (the Act)*, Section 47.
12. Also relevant and considered in this case are Sections 19, 34 and 35 of *the Act*, and Policy 12-1: *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*.

Issue 1: Rent Owing - \$850.00

Relevant Submissions

Landlord Position

13. The landlords stated that they had entered into a written monthly rental agreement with the tenants with rent set at \$850.00 per month and due on the 1st day of each month with a security deposit in the amount of \$425.00 collected on this tenancy on or about 05 December 2019. The landlord demonstrated the arrears with rental records (**Exhibit L # 2**) as total rent outstanding is \$850.00 up to and including 31 March 2020. The landlords stated that the tenants vacated the property as of 10 March 2020.

14. The landlords testified that they received a message on or about 26 February from the tenants that they would not be paying rent and moving in March 2020.

Tenant Position

15. The tenants acknowledged not paying rent for March 2020. They stated that tenant2 lost his job on 31 January 2020 because of snowmagedden and that was followed up with issues getting his EI approved.

Analysis

16. I have reviewed the testimony and evidence of the landlords and tenants in this matter. As far as I can see, there is 1 issue here that needs to be addressed: (i) is the rent that is being claimed by the landlords actually owed by the tenants.

17. With respect to the arrears being claimed, I agree with the landlords and the tenants that rent is owed. Rent is required to be paid by the tenants for use and occupation of the rented premises as set out in the written rental agreement established when the tenancy began. Records are clear and the tenants have acknowledged that rent for the period ending 31 March 20 has not been paid leaving a balance of \$850.00.

Decision

18. The landlords’ total claim for rent succeeds as follows:

- a) Rent owing up to 31 March 2020 \$850.00

Issue 3: Hearing Expenses

Landlord Position

19. The landlords paid a fee in the amount of \$20.00 as an application filing fee and presented a receipt from Service NL (██████) (**Exhibit L # 4**). The landlords are seeking this cost.

Analysis

20. I have reviewed the testimony and evidence of the landlords in this matter. The expenses incurred by the landlords are considered a reasonable expense and are provided for with in Policy 12-1 *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF* in the event the claim has been successful. As the landlords’ claim has been successful, I find the tenants are responsible to cover this reasonable expenses.

Decision

21. The landlords' claim for hearing expenses succeeds in the amount of \$20.00.

Issue 4: Application/Refund of Security Deposit

Landlord Position

22. The landlords testified that a security deposit in the amount of \$425.00 was paid on the property on or about 05 December 2019. The landlords' claim is seeking to apply the security deposit against the order issued by the tribunal.

23. The landlords acknowledges holding the security deposit in the amount of \$425.00.

Tenant Position

24. The tenants are seeking a refund of the security deposit paid (**Exhibit T # 1**) in the total amount of \$425.00.

Analysis

25. Established by undisputed fact above, the tenants did pay a security deposit to the landlords in the amount of \$425.00.

26. The landlords' claim has been partially successful as indicated above. The security deposit plus accrued interest is \$425.00 as the interest rate for 2019 – 2020 is set at 0%.

27. The landlords' claim is successful. The security deposit is an asset of the tenants to be held against any loss incurred by the landlords attributed to the tenancy. In this matter it has been determined that there was attributable loss and as such, the landlords are entitled to offset the security deposit against the damages as outlined in the attached order.

Decision

28. As the landlords' claim above has been successful in part, the landlords shall offset the security deposit being held against the damages as outlined in the attached order.

Summary of Decision

29. The landlords are entitled to the following:

a)	Rent Owing	\$850.00
b)	Hearing Expenses	<u>20.00</u>
c)	Sub-Total	\$870.00
d)	LESS: Security Deposit	<u>(\$425.00)</u>
e)	Total Owing to the Landlords	<u>\$445.00</u>

21 December 2020

Date



Michael Greene
Residential Tenancies Tribunal