

Residential Tenancies Tribunal

Decision 19-0048-05

Denise O'Brien
Adjudicator

Introduction

1. The hearing was called at 1:20 p.m. on February 14, 2019 at Residential Tenancies, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The tenant, [REDACTED], hereafter referred to as the tenant, participated in the hearing.
3. The landlord, [REDACTED], hereafter referred to as the landlord, did not attend the hearing.

Preliminary Matters

4. The landlord was not present or represented at the hearing. Prior to the hearing I was speaking with the landlord and he said he could not attend the hearing by conference call.
5. This Tribunal's policy concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) a respondent to an application must be served with the application for dispute resolution 10 clear days prior to the hearing date, and where the respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent's absence so long as he/she has been properly served.

6. The affidavit of service submitted by the tenant shows that the notice of this hearing was personally served on January 31, 2019 and the landlord has had 13 days to provide a response. As the landlord was properly served with the application for dispute resolution, and as any further delay in these proceedings would unfairly disadvantage the tenant, I proceeded with the hearing in his absence.
7. ██████████ appeared as a witness for the tenant.

Issues before the Tribunal

8. The tenant is seeking the following:
 - a. Return of the security deposit.

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 is Section 14.

Issue 1: Return of the security deposit - \$350.00

11. In determining an application for the return of the security deposit, the tenant is required to establish a security deposit was paid.

Tenant Position

12. The tenant testified he moved into the unit on March 1, 2014 on a verbal month to month tenancy. He paid a security deposit in the amount of \$350.00. The landlord has not returned the security deposit as of the date of the hearing.

Witness Position

13. The witness testified that she moved into the unit in June 2018. A text message was sent to the landlord on October 15, 2018 notifying him they were vacating the unit on December 1, 2018. They vacated on November 30, 2018.

Analysis

- 14. I have reviewed the testimony and evidence of the tenant and the witness and I find a security deposit was paid in March 2014. The tenants vacated on November 30, 2018 and as of the date of the hearing the landlord has not returned the security deposit. The landlord has not filed an application to keep the security deposit. Under section 14.(2)

A landlord who does not make an application in accordance with subsection (11) shall return the security deposit to the tenant.

Decision

- 15. The landlord shall return the \$350.00 security deposit to the tenant.

Summary of Decision

- 16. The tenant is entitled to the following:
 - a) Return of the security deposit..... \$350.00

March 26, 2019
Date


Residential Tenancies Section