

Residential Tenancies Tribunal

Application 2025-0632-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:11 a.m. on 12-September-2025.
2. The applicants, [REDACTED] (landlord 1) and [REDACTED] (landlord 2), hereinafter referred to as “the landlords” attended in person at 149 Smallwood Drive, Mount Pearl.
3. The respondents, [REDACTED] (tenant 1) and [REDACTED] (tenant 2), hereinafter referred to as “the tenants” attended in person at 149 Smallwood Drive, Mount Pearl.
4. [REDACTED], Interpreter was also present.

Preliminary Matters

5. The landlords submitted an affidavit with their application stating that they had served the tenants with the notice of hearing personally at the residential premises on 14-August-2025 (LL#1). The tenants confirmed receipt of the document on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.
6. There originally was a written fixed term rental agreement that commenced on 23-September-2022. Rent at that point was \$950.00 due on the 23rd of the month. There currently is a month-to-month agreement with rent due on the 1st of each month at a monthly rate of \$1050.00. A security deposit of \$400.00 was paid on September 9, 2022, and is in the landlord’s possession.
7. The landlords amended the application to include hearing expenses.

Issues before the Tribunal

8. The landlords are seeking:
 - An order for vacant possession of rented premises
 - Rent paid \$700.00
 - Hearing expenses \$65.99
 - Security deposit applied against monies owed \$400.00

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*. Also, relevant and considered in this decision are

the following sections of the *Residential Tenancies Act, 2018*: Section 14: Security deposit and Section 19: Notice where failure to pay rent. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy*: Section 12-1: Recovery of costs.

**Issue # 1: Vacant Possession of the Rented Premises
Rent paid \$700.00**

Relevant Submission

10. The landlords submitted a copy of a termination notice with cause under Section 19: Notice where failure to pay rent. The notice was signed and dated for 7-July-2025, with a termination date of 18-July-2025 (LL#2). The landlords are also seeking rent to be paid in full in the amount of \$700.00 and submitted a copy of the rental ledger to support the claim (LL#3).

Landlord's and Tenant's Positions

11. The landlords testified that rent was paid in part for the month of July 2025 in the amount of \$350.00 leaving an outstanding balance of \$700.00 and they stated that they are seeking vacant possession and to have rent paid in full. The tenants did not dispute that rent was paid in part for the month of July, however tenant 1 stated that they had overpaid rent since the date of the rent increase on 1-November-2024 as they claim that the rent increase was not given in accordance with the *Act*. Tenant 1 stated that they withheld rent in the amount of \$700.00 to cover the overpayment due to an improper notice of rent increase.

Analysis

12. Section 19 of the *Residential Tenancies Act, 2018* states:

Notice where failure to pay rent

19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),

(b) where the residential premises is

- i. rented from *month to month*,**
- ii. rented for a fixed term, or**
- iii. a site for a mobile home, and**

the amount of rent payable by a tenant is **overdue for 5 days or more**, the landlord may give the tenant notice that the rental agreement is terminated and that the tenant is required to vacate the residential premises on a specified date not less than 10 days after the notice is served on the tenant.

(4) In addition to the requirements under section 34, a notice under this section shall

- a. be signed by the landlord;**
- b. state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and**

c. *be served in accordance with section 35.*

13. The tenants were in rent arrears in excess of the 5 days when the termination notice was served. On the date of termination, 18-July-2025, the tenants were still in arrears. I asked the landlords how the termination notice was served and landlord 1 responded that it was sent electronically and the tenants confirmed receipt of the notice on that date. In accordance with Section 19 of the *Residential Tenancies Act, 2018* as stated above, the termination notice meets the requirements of the *Act* and is a valid notice from a timeline perspective.
14. With regards to the tenants argument that they did not receive a proper written notice of the rent increase to commence on 1-November-2024, I accept the landlord's exhibit showing that a text message was sent to tenant 1 dated 24-April-2024 at 7:46pm stating that there would be a rent increase of \$100.00 to commence 1-November-2024 and followed up with a picture of the formal written notice signed by the landlords (LL#4). The submission shows a response from tenant 1 on the same day stating: "Ok thank you very much I appreciate this".
15. I asked tenant 1 if he had received the text message regarding the rent increase as presented by the landlords and he responded that he had and he confirmed that he did respond to the message; however, he testified that the picture showing the formal notice of rent increase with signatures did not come through on his phone as he did not have data at that time. Tenant 1 stated that due to the data issue, the notice of rent increase was not given in accordance with the *Act*. I asked tenant 1 if he had provided the landlords with that cell number for the purpose of communication and he responded that he did but stated that his preferred method of communication was email.
16. Subsection 2 of Section 35 of the *Residential Tenancies Act* states:

Service of Documents

35 (2) A notice or other document under this Act other than an application under Section 42 shall be served by a landlord on a tenant by

(f) sending it electronically where

- i. it is provided in the same or substantially the same form as the written notice or document,*
- ii. the tenant has provided an electronic address for receipt of documents, and*
- iii. it is sent to that electronic address*

17. I accept that the tenants would have preferred email as their choice of electronic service; however, given that they had provided the landlords with their cell number for the purpose of communication, I find that the landlords were in their right to serve the notice of rent increase via text message. In accordance with Section 35 of the *Act* as stated above, I find that the landlord's method of service meets the requirements as set out in the *Act*. I accept that the text message was clear with regards to the rent increase and its effective date, and I find that the onus was on the tenants to make the landlords aware that the picture did not come through due to the data issue and request to have the formal notice

resent by email. I find that the landlords gave the rent increase notice in accordance with the *Act*.

18. The fact that the tenants paid the increase in rent on 1-November-2024 right up to July 2025 indicates that they never had an issue with the rent increase or how the landlords delivered the notice. Also, the landlord's pointed out that the tenants continued to pay rent the following months in August and September 2025 at the increased rate which does not support their argument.
19. I do not accept the testimony of the tenants that their reasoning for not paying rent in full for the month of July 2025 had anything to do with the rent increase notice and/or how it was delivered. Tenant 1 stated that they withheld the rental increase amount of \$100.00 per month since November 2024 up to the end of June 2025 in the amount of \$700.00; however, the amount of the increase for that period equates to \$800.00 not \$700.00. I find that the tenants were informed properly of the rent increase, agreed to the increase with no dispute and paid the increase for 8 straight months.
20. I find that the tenants were in rent arrears at the time the termination notice was given and still in arrears on the date of termination. I find that the termination notice dated 7-July-2025 meets the requirements of the *Act* and is a valid notice.
21. With regards to the payment of outstanding rent, I find that non-payment of rent is a violation of the rental agreement. Rent is required to be paid by a tenant(s) during the use or occupancy of a residential premises. If the tenants felt that they had overpaid rent for whatever reason, they had a responsibility to discuss same with the landlords and mutually agree to a solution, and if they could not come to a mutual agreement then utilize the dispute resolution process. I find that tenants did not have the right to decide to just withhold rent on their own causing potential financial hardship on the landlords. The rental ledger is amended to show a daily rate for September as this tribunal does not consider future rent (see below).

Amended rent ledger 2025-0632-NL			
Date	Action	Amount	Total
June 30, 2025	Balance		\$0.00
July 1, 2025	rent due	\$1,050.00	\$1,050.00
July 2, 2025	Payment	-\$350.00	\$700.00
August 1, 2025	rent due	\$1,050.00	\$1,750.00
August 6, 2025	Payment	-\$1,050.00	\$700.00
September 1-12, 2025	rent due (12 days)	\$414.25	\$1,114.25
September 3, 2025	Payment	-\$1,050.00	\$64.25

Daily rate: \$1050 x 12 mth = \$12600
 \$12600 / 365 days = \$34.52 per day

22. I find that rent is outstanding in the amount of \$64.25 for the period of July 1 to September 12, 2025.
23. The tenants shall pay a daily rate of \$34.52 effective 13-September-2025, until such time as the landlords regain possession of the property.

Decision

24. The landlord's claim for an order for vacant possession of the rented premises succeeds.
25. The landlord's claim for rent paid succeeds in the amount of \$64.25.

Issue # 2: Hearing expenses \$65.99

Analysis

26. The landlords paid an application fee of \$20.00 to *Residential Tenancies* and incurred office supply expenses in the amount of \$45.99. The landlords submitted a copy of the receipts (LL#5). In accordance with Section 12-1 of the *Residential Tenancies Policy Manuel*, filing fees and other hearing expenses can be claimable costs. As the landlord's claim for losses has been successful, I find that the tenants are responsible for the filing fee of \$20.00; however, they are not responsible for the office supply expenses.

Decision

27. The landlord's claim for hearing expenses succeeds in the amount of \$20.00.

Issue # 3: Security deposit applied against monies owed \$400.00

Analysis

28. Section 14 of the *Residential Tenancies Act, 2018* states:

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).*

29. The landlord's claim for losses has been successful as per paragraphs 23 and 25 above, and as such I find that the landlord's claim to have the security deposit applied against monies owed succeeds.

Decision

30. The landlord's claim to have the security deposit applied against monies owed

succeeds.

Summary of Decision

31. The tenants shall pay the landlords \$0.00 as follows:

Rent paid	\$64.25
Hearing expenses	20.00
Less: partial security deposit	84.25
 Total	 \$0.00

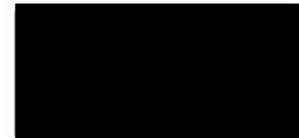
32. The tenants shall pay a daily rate of rent beginning 13-September-2025 of \$34.52, until such time as the landlords regain possession of the property.

33. The tenants shall vacate the property immediately.

34. The tenants shall pay to the landlords any costs charged to the landlords by the Office of the High Sheriff should the landlords be required to have the Sheriff enforce the attached Order of Possession.

35. The landlords will be awarded an Order of Possession.

September 16, 2025
Date



Pamela Pennell, Adjudicator
Residential Tenancies Office