

Residential Tenancies Tribunal

Application 2025-0894-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:15 a.m. on 4-December-2025.
2. The applicant, [REDACTED] (tenant 1), hereinafter referred to as “the tenant” attended by teleconference. The applicant, [REDACTED] (tenant 2), hereinafter referred to as “the tenant”, did not attend.
3. The respondent, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.

Preliminary Matters

4. The tenants submitted an affidavit with their application stating that they had served the landlord with the notice of hearing electronically by email on 6 October 2025 (TT#1). The landlord confirmed receipt of the document on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There was a fixed term rental agreement effective 1-September-2025, however the tenants never took possession of the premises. Rent was \$1500.00 per month, due on the 1st day of each month. A security deposit of \$1000.00 was paid on 15-July-2025 and has been refunded to the tenants.

Issues before the Tribunal

6. The tenants are seeking:
 - Rent refunded \$750.00
 - Hearing expenses \$20.00

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
8. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 10: Statutory conditions. Also, relevant and considered in

this decision is the following section of the *Residential Tenancies Policy*: Section 12-1: Recovery of costs.

Issue # 1: Refund of Rent \$750.00

Tenant's Position

9. Tenant 1 testified that he and tenant 2 viewed the unit as a potential rental on 16-July-2025 at which time they noticed a fair amount of water present on the laundry room floor which was coming from the hot water boiler. Tenant 1 also testified that the landlord had advised them that the burners on the stove needed to be repaired as well and that all work would be completed by their move in date on 1-September. Tenant 1 stated that he and tenant 2 proceeded to sign a rental agreement based on the verbal promise that both items would be fixed by 1-September.
10. Tenant 1 testified that on 29-July-2025 they received a message from the landlord stating that he had just fixed the water leak in the laundry room, and he also stated that the stove is fixed. The tenants submitted a copy of the message to support the claim (TT#2). Tenant 1 stated that they learned on 29-August only after they paid rent in full that both issues had not been fixed and that the landlord was expecting to have the problems rectified within the next week. Tenant 1 stated that they did not trust the landlord and refused to take possession of the unit as he not only reneged on his promise but outright lied to them until he had received the rent in full. Tenant 1 stated they were unwilling to move into a unit that had an abundance of water on the floor and a non-functional stove as it just was not healthy to do so. Tenant 1 stated that the landlord returned \$750.00 of the rent paid and they are seeking to have the remainder of the rent paid refunded in the amount of \$750.00.

Landlord's Position

11. The landlord disputed that he should have to refund the remainder of the rent paid for the month of September as the tenants contravened the fixed rental agreement and he also disputed that he was dishonest or malicious in any way. The landlord referenced the message sent on 29-July and testified that a plumber had visited the unit and repaired the hot water boiler at that point, and he testified that the parts for the stove had arrived, and he did not anticipate any problems going forward.
12. The landlord testified that it was not until 31-August when he entered the unit to ensure it was clean for the new tenants that he realized that there was still a small amount of water leaking from the gasket on the hot water boiler and the part received for the stove didn't actually fix the problem and another part had to be ordered. The landlord testified that the stove was functional with the main burners working and the 2 back warmer burners not working, and he testified that the water leaking from the gasket on the hot water boiler was minimal and would be dealt with as soon as the plumber could return which was within a week. The landlord stated that the unit was habitable with hot water running freely and it had a functional stove, and he stated that the tenants did not have good reason to refuse to take possession. The landlord also stated that he was cooperative and found new tenants for 15-September-2025 at which time he refunded the tenants ½ rent for the month.

Analysis

13. Section 10(1) of the *Residential Tenancies Act, 2018* states: statutory conditions.

Statutory conditions

10. (1) Notwithstanding an agreement, declaration, waiver or statement to the contrary, where the relationship of landlord and tenant exists, there shall be considered to be an agreement between the landlord and tenant that the following statutory conditions governing the residential premises apply:

1. Obligation of the landlord –

- a) The landlord shall maintain the residential premises in a good state of repair and fit for habitation during the tenancy and shall comply with a law respecting health, safety or housing.

Paragraph (a) applies regardless of whether, when the landlord and tenant entered into the rental agreement, the tenant had knowledge of a state of non-repair, unfitness for habitation or contravention of a law respecting health, safety or housing in the residential premises.

14. I accept that the tenants were disappointed to learn that the issues within the unit had not been rectified as promised by the landlord and I accept that they felt betrayed and decided it best not to move into the unit on 1-September. However, they entered into a binding contract with the landlord to rent the unit for a 12-month period and unless the unit was uninhabitable there was an expectation for the tenants to honor the contract.
15. In accordance with Section 10 of the Act as stated above, I find that the landlord fulfilled their obligation to maintain the unit in a good state of repair and fit for habitation. The stove was functional, and the warmer burners would have been fixed in a reasonable timeframe and the tenants would have had hot water running in the unit with the gasket fixed within a week. I find that the tenants contravened the rental agreement by refusing to take possession and I also find that the landlord acted in good faith by mitigating his losses as soon as possible and returning a portion of the rent paid to the tenants. Landlords should not incur any financial loss due to the actions of tenants and as such, I find that the landlord is not responsible to refund the tenants rent paid for the month of September.

Decision

16. The tenant's claim for a refund of rent does not succeed.

Issue # 2: Hearing expenses \$20.00

Analysis

17. The tenants paid an application fee of \$20.00 to *Residential Tenancies* and submitted a copy of the receipt to support the claim (TT#3). In accordance with Section 12-1 of the *Residential Tenancies Policy Manual*, claimable costs may include the filing fee. As the tenant's claims has not been successful, I find that the landlord is not responsible for the hearing expenses.

Decision

18. The tenant's claim for hearing expenses does not succeed.

Summary of Decision

19. The tenant's claim for a refund of rent does not succeed.
20. The tenant's claim for hearing expenses does not succeed.

December 8, 2025

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office