

Residential Tenancies Tribunal

Application 2026-0052-NL
Counter application 2026-0188-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 1:53 p.m. on 4-March-2025.
2. The applicant, [REDACTED] hereinafter referred to as “the landlord” attended by teleconference.
3. The respondents and a counter applicants, [REDACTED] and [REDACTED] hereinafter referred to as “the tenants” attended via teleconference.
4. [REDACTED] attended the hearing as interpreter on the landlord’s behalf.

Preliminary Matters

5. At the commencement of the hearing, the landlord indicated that witness testimony would be provided. However, no witnesses were called to testify during the hearing by the landlord; no sworn witness statements were submitted prior to the hearing by the landlord. Although the landlord was afforded opportunities to present evidence in support of their assertions, no request was made to call a witness. The responsibility to present evidence and call witnesses rests with the party, not the adjudicator.
6. The landlord submitted two affidavits with their application stating that they had served the tenants with the notice of the hearing electronically on 30-January-2026 (LL#1,2). The tenants confirmed that they received the notice on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.
7. The tenants stated that they served the landlord with the notice of the hearing electronically on 25-February-2026. The landlord confirmed receiving the notice on that date and, despite the short notice, waived any objection to service. Therefore, I proceeded with the hearing of both applications.
8. There was a written fixed term rental agreement that was supposed to commence on 1-January-2026 for one year. The tenants never moved into the rental unit. Rent was \$1425.00 per month due on the first of each month. A security deposit of \$1068.75 was collected on 26-November-2025 and is still in the landlord’s possession.

Issues before the Tribunal

9. The landlord is seeking:

- Rent paid \$1425.00;
- Late fees \$75.00;
- Security Deposit of \$1068.75 to be applied against any monies owed.

10. The tenants are seeking:

- Refund of Security Deposit \$1068.75.

Legislation and Policy

11. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.

12. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 14: Security Deposit, Section 18: Notice of termination of rental agreement.

Issue # 1: Rent paid \$1425.00 Late fees \$75.00.

Landlord's Position:

13. The landlord is seeking payment of rent for the month of January and late fees of \$75.00. The landlord testified that the tenants paid a security deposit and signed a rental agreement at the beginning of December. The landlord further testified that, on 10-December, the tenants notified the landlord that they would not be proceeding with the tenancy because they were relocating.

14. The landlord testified that, according to the rental advertisement and their usual rental practices, the two-bedroom unit is intended for occupancy by no more than *two tenants*. The landlord stated that this requirement was clearly outlined in the advertisement and that they wished to maintain this standard for future tenants. The landlord further testified that it was important to secure tenants willing to enter into a one-year lease. Despite this, the tenants provided notice that they were cancelling the rental agreement after having signed a one-year lease commencing 1-January-2026.

15. The landlord submitted evidence demonstrating that they took steps to mitigate their loss (LL#3). The landlord testified that the unit was re-advertised beginning December 12. The landlord further testified that they were able to secure a new tenant on 3-February-2026 for a one-year lease.

Tenants' Position:

16. The tenants stated that they signed the one-year lease at the beginning of December. However, shortly thereafter they learned that they would be relocated from Newfoundland to Alberta due to work obligations. The tenants testified that as soon as they became aware of this relocation, they informed the landlord via text message on 9-December that they would be unable to proceed with the lease, despite the agreement having already been signed and the security deposit paid.

17. The tenants explained that they offered to assist the landlord in finding new tenants for the rental unit. They testified that they asked the landlord if they could help advertise the unit or search for potential tenants. The tenants submitted screenshots of text messages showing that the landlord did not respond promptly to their communications. The tenants stated that the landlord replied to their initial message approximately two or three days later and indicated that they could assist (TT#1). The tenants further testified that after posting the listing, they received significant interest in the unit from several individuals and families. They stated that they attempted to refer potential tenants to the landlord, including a family consisting of two adults and a two-year-old child. The tenants stated that they did not receive a response from the landlord regarding this referral. They also stated that they later identified another potential tenant, a woman with two children aged two and eight, but again did not receive a response from the landlord (TT#2). The tenants testified that interest in the rental unit appeared to be high and several people were interested in taking over the unit in January. They stated that the landlord referred them to one of her friends to discuss the rental (TT#3). However, the tenants stated that communication with this individual was limited and responses were not provided in a timely manner. According to the tenants, on 24-December the individual informed them that she did not wish to continue communicating with them and asked them to stop contacting her (TT#4). The tenants further stated that this person clarified that she was not legally representing the landlord and was only attempting to assist informally.
18. The tenants further stated that the landlord eventually stopped communicating with them and did not respond to their subsequent text messages, calls, or voicemails. They also testified that the landlord's friend similarly did not respond in a timely manner. The tenants stated that due to the lack of communication and in an effort to help secure a new tenant, they remained in Newfoundland for several additional days longer than planned.
19. The tenants also testified that they observed the landlord initially advertised the unit as suitable for "two tenants." From the tenants' understanding, this did not necessarily mean only two occupants, and they questioned why a two-bedroom unit could not reasonably accommodate two adults and a child. The tenants stated that they raised this concern with the landlord and that, following this discussion, the landlord amended the advertisement to specify occupancy by *two occupants* only. The tenants expressed that they did not understand why this restriction was so significant and believe it was unreasonable for the landlord to decline potential tenants they referred due to the presence of a third occupant, particularly where that occupant was a child. The tenants further testified that they learned in December that the wife was pregnant and stated that, had they remained in the unit under different circumstances, they were concerned about how the landlord would have responded to the expansion of their family, given the landlord's strict position on occupancy limits.
20. The tenants stated that although they terminated the lease prior to its commencement and did not pay rent for the month of January, they believe the landlord did not demonstrate sufficient effort to re-rent the unit. The tenants testified that they attempted to assist the landlord by referring potential tenants but observed what they perceived to be a lack of engagement from the landlord. The tenants further stated that they never received a key to the rental unit. For these reasons, the tenants submit that they should not be held responsible for the landlord's loss of rental income for January.

Analysis

21. Section 18 of *the Residential Tenancies Act, 2018* states:

Notice of termination of rental agreement

18. (1) *A tenant shall give the landlord notice that the rental agreement is terminated and the tenant intends to vacate the residential premises*

(c) *not less than 2 months before the end of the term where the residential premises is rented for a fixed term.*

(5) *Notwithstanding subsections (1) to (3), a notice of termination is not required to be given where a landlord and a tenant agree in writing to terminate the rental agreement on a specific date.*

(6) *Notwithstanding subsections (1) to (3), a landlord and tenant may agree in writing to a longer notice period.*

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

(a) *be signed by the person providing the notice;*

(b) *be given not later than the first day of a rental period;*

(c) *state the date, which shall be the last day of a rental period, on which the rental agreement terminates and the tenant intends to vacate the residential premises or the date by which the tenant is required to vacate the residential premises; and*

(d) *be served in accordance with section 35.*

22. I accept both the landlord's and the tenants' evidence that the tenants did not pay rent for January and that they informed the landlord on December 9–10 that they would not proceed with the lease. While this communication does not constitute proper termination of a fixed-term tenancy under Section 18, as stated above, I find that the landlord was clearly aware, prior to the commencement of the lease, that the tenants did not intend to proceed with the tenancy.

23. I accept the landlord's evidence that the unit was advertised beginning 12-December. I also accept the tenants' testimony that they made efforts to assist the landlord in re-renting the unit by advertising it themselves and referring potential tenants. The tenants testified that the unit generated significant interest and that several prospective tenants were identified and referred to the landlord.

24. The landlord testified that it was essential for the unit to be occupied by two tenants only. When asked to clarify this requirement, the landlord stated that this had always been their practice and that they understood "two tenants" to mean *two occupants*. The tenants testified that the original advertisement referred to two tenants, and that the wording was later changed to two occupants after they questioned why the landlord declined to rent to a family of two adults and a young child.

25. I acknowledge and understand the landlord's preference to rent the unit to *two occupants under a fixed-term lease*. However, I find that the landlord did not provide sufficient explanation as to why prospective tenants consisting of three occupants, such as a family with a child, could not have been reasonably considered for a two-bedroom unit. In the absence of evidence demonstrating that such an arrangement would have been unsuitable or impractical, I do not find that maintaining this strict occupancy preference was reasonable where it limited viable rental options. In assessing whether reasonable efforts were made to mitigate the loss of rental income, I must consider whether the landlord took reasonable steps to re-rent the unit once aware that the tenants would not proceed with the lease. While I accept that the unit was advertised, the evidence shows that interest in

the unit was high and that potential tenants were referred by the tenants. A two-bedroom unit may reasonably accommodate a small family of three occupants. In the absence of sufficient justification for declining such applicants, I find that the landlord imposed limitations on potential tenants that were not reasonably supported by the evidence.

26. For these reasons, I find that the landlord has not demonstrated that reasonable steps were taken to mitigate the loss of rental income for the month of January. Accordingly, I find that the tenants are not responsible for compensating the landlord for the claimed rental loss and late fees for that period.

Decision

27. The landlord's claim for rent and late fees does not succeed.

Issue # 2: Refund of security deposit \$1068.75.

Security deposit to be applied against any monies owed \$1068.75

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 not been successful as per paragraph 27 and as such, the security deposit shall be refunded to the tenants. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to a tenant for the entire period that the landlord has had the security deposit. The interest is calculated as simple interest and is not compounded. The interest in 2025 was 1%, the annual interest in 2026 is 0%.

Decision

30. Security deposit plus interest of \$1069.80 to be refunded to the tenants.

Summary of Decision

31. The landlord's claim for rent and late fees paid does not succeed.

32. The landlord shall refund the security deposit of \$1069.80 to the tenants.

March 23, 2026

Date



Oksana Tkachuk, Adjudicator
Residential Tenancies Office