

Residential Tenancies Tribunal

Application [REDACTED]

Decision 20-0495-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:07 am on 25 January 2021 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants”, did not participate.

Issues before the Tribunal

3. The landlord is seeking the following:
 - An order for a return of missing possessions valued at \$689.99;
 - An order for a payment of rent in the amount of \$1800.00;
 - An order for a payment of late fees in the amount of \$150.00;
 - Authorization to retain the \$450.00 security deposit.

Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case is sections 15 of the *Residential Tenancies Act, 2018* and rule 29 of the *Rules of the Supreme Court, 1986*.

Preliminary Matters

6. The tenants were not present or represented at the hearing and there was no telephone number where they could be reached. This Tribunal's policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date and, where the respondents fail to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondents' absence so long as they have been properly served. With his application, the landlord submitted an affidavit stating that the tenants were served with notice of the hearing on 28 December 2020 and they have had 27 days to provide a response. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.

Issue 1: Rent - \$1800.00

Relevant Submissions

7. The landlord stated that he had entered into a monthly rental agreement with the tenants on 30 June 2018. The rent was set at \$900.00 per month and the landlord testified that they had paid a security deposit of \$450.00.
8. The landlord stated that in June 2020 he was informed by one of the tenants' neighbours that they have moved out of the property in early May 2020. He stated that he had not received any notice from his tenants that they had intentions to terminate their agreement.
9. The landlord submitted rent records with his application (█ #1) and he pointed out that the tenants had not paid their rent for the months of January and February 2020, a total of \$1800.00. He stated that he had received the required rent for March, April and May 2020.
10. The landlord is seeking an order for a payment of rent in the amount of \$1800.00 for those 2 months.

Analysis

11. I accept the landlord's claim that the tenants had not paid their rent as required and that no rent was paid for the months of January and February 2020. As such, I find that the landlord claim succeeds in the amount of \$1800.00.

Issue 2: Late Fees - \$150.00

Relevant Submissions

12. The landlord has assessed late fees in the amount of \$150.00.

Analysis

13. Section 15 of the *Residential Tenancies Act, 2018* states:

Fee for failure to pay rent

15. (1) *Where a tenant does not pay rent for a rental period within the time stated in the rental agreement, the landlord may charge the tenant a late payment fee in an amount set by the minister.*

14. The minister has prescribed the following fees:

Where a tenant has not paid the rent for a rental period within the time specified in the Rental Agreement, the landlord may assess a late payment fee not to exceed:

(a) \$5.00 for the first day the rent is in arrears, and

(b) \$2.00 for each additional day the rent remains in arrears in any consecutive number of rental payment periods to a maximum of \$75.00.

15. As the tenants have been in arrears since 02 January 2020, the landlord is entitled to an award for the maximum fee of \$75.00 set by the minister.

Decision

16. The landlord's claim for late fees succeeds in the amount of \$75.00.

Issue 3: Missing Possessions - \$689.99

Relevant Submissions

17. The landlord testified that the rental unit was furnished with a washing machine and a clothes dryer. He stated that during their tenancy, the washing machine broke down and the tenants replaced it at their own cost. When the tenants moved out, they took their washing machine with them.

18. However, the landlord complained that they had also removed the clothes dryer which they had been supplied with and he was required to purchase a new one after they moved out.
19. The landlord submitted a receipt with his application (█ #2) showing that he had paid \$689.99 for a new clothes dryer. He stated that the dryer the tenants had removed was approximately 5 years old.

Analysis

20. I accept the landlord's claim in this matter and I agree with him that as the clothes dryer was only provided to the tenants for their use during this tenancy, they were not permitted to remove it after they had moved out. As such, I agree that the landlord is entitled to the costs of replacing the dryer.
21. Clothes dryers are a depreciable item and have an expected lifespan of 14 years. As this dryer was already 5 years old, I find that the landlord is entitled to an award in the amount of \$443.57 ($9/14 \times \689.99).

Decision

22. The landlord's claim for compensation for missing possessions succeeds in the amount of \$443.57.

Issue 4: Hearing Expenses

23. The landlord had attempted to serve the tenants by registered mail, but the tenants refused to claim that registered letter and it was eventually returned to the landlord. He submitted receipts with his application (█ #3) showing that he was charged \$17.54 to send the documents to the tenants and another receipt showing that he was charged \$14.62 to collect those same returned items.
24. As the landlord's claim has been successful, the tenants shall pay these hearing expenses.

Issue 5: Security Deposit

25. The landlord stated that the tenants had paid a security deposit of \$450.00 on 30 June 2018. As the landlord's claim has been successful, he shall retain that security deposit as outlined in this decision and attached order.

Summary of Decision

26. The landlord is entitled to the following:

- a) Rent..... \$1800.00
- b) Late Fees \$75.00
- c) Missing Possessions \$443.57
- d) Hearing Expenses \$32.16
- e) LESS: Security Deposit (\$450.00)
- f) Total Owing to Landlords..... \$1900.73

20 April 2021

Date



John R. Cook
Residential Tenancies Tribunal