

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0037-03

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:15 PM on 22 September 2021 via teleconference.
2. The applicant, [REDACTED] was represented at the hearing by [REDACTED] hereinafter referred to as “the landlord”. The respondent, [REDACTED], hereinafter referred to as “the tenant”, did not participate.

Issues before the Tribunal

3. The landlord is seeking the following:
 - a. An order for a payment of rent in the amount of \$1570.00;
 - b. An order for a payment of late fees in the amount of \$75.00; and
 - c. An order for vacant possession of the rented premises.

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 are sections 15 and 19 of the *Residential Tenancies Act, 2018* and rule 29 of the Rules of the Supreme Court, 1986.

Preliminary Matters

6. The tenant was not present or represented at the hearing and I was unable to reach him by telephone. 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 a respondent fails 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. The landlord submitted an affidavit with her application stating that the tenant was personally served with notice of the hearing on 11 September 2021, and he has had 10 clear days to provide a response. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in his absence.

7. The landlord amended her application at the hearing and he stated that she was no longer seeking an order for possession of the property as the tenant vacated on 15 July 2021.

Issue 1: Rent - \$1570.00

Relevant Submissions

8. The landlord stated that she had entered into a monthly rental agreement with the tenant on 14 July 2020 and a copy of that executed agreement was submitted with her application (████ #1). The agreed rent was set at \$700.00 per month and it is acknowledged in the rental agreement that the tenant had paid a security deposit of \$588.75.
9. The landlord stated that the tenant had fallen into rental arrears on several occasions during this tenancy and as a result he had been issued 3 different termination notices. The most recent notice was issued to the tenant on 28 June 2021 and a copy of that notice was submitted with the landlord's application (████ #2). That notice was issued under section 19 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 10 July 2021. The tenant vacated on 15 July 2021.
10. The landlord submitted rent records with her application (████ #3) and she pointed out that these records show that the tenant had not paid his rent for June or July 2021. She is seeking an order for a payment of \$1570.00 for those 2 months.

Analysis

11. I accept the landlord's claim that the tenant had not paid rent as required and I agree with her that the tenant owes her \$1570.00 in rent for June and July 2021 (\$785.00 per month x 2 months).

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12. The landlord's claim for a payment of rent succeeds in the amount of \$1570.00.

Issue 2: Late fees - \$75.00

Relevant Submissions

13. The landlord has assessed late fees in the amount of \$75.00.

Analysis

14. Section 15.(1) 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.*

15. The minister has set 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.

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16. As the tenant has been in arrears since 02 June 2021, the landlord is entitled to an award for the maximum fee of \$75.00 set by the minister.

Issue 3: Security Deposit

17. The tenant paid a security deposit of \$588.75 on 03 July 2020 and receipt of that deposit is acknowledged in the submitted rental agreement. As the landlord's claim has been successful, she shall retain that deposit as outlined in this decision and attached order.

Summary of Decision

18. The landlord is entitled to the following:

- a) Rent Owing\$1570.00
- b) Late Fees\$75.00
- c) **LESS: Security Deposit..... (\$588.75)**
- d) Total Owing to Landlord\$1056.25

27 July 2022

Date

