

## Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0061-01

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 2:00 PM on 15 March 2022 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:
  - An order for a payment of rent in the amount of \$704.22,
  - An order for a payment of late fees in the amount of \$75.00.

### 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 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 the respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent's absence so long as he has been properly served. The landlord submitted an affidavit with her application stating that she sent the application and notice of the hearing to the tenant by email, on 31 December 2021, and a copy of that e-mail was submitted with her application. 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.

## **Issue 1: Rent - \$704.22**

### **Relevant Submissions**

7. The landlord testified that she had entered into a monthly rental agreement with the tenant on 01 March 2019. The agreed rent was set at \$715.00 per month and a security deposit in the amount of \$528.00 was collected.
8. The landlord found the unit abandoned sometime in November 2021 and she entered and took possession at that time.
9. The landlord submitted a copy of rent records showing the rent payments received from the tenant since he moved into the unit (L #1). The landlord testified that the tenant was subsidized by the province but that these payments stopped in the middle of September 2021.
10. According to these records, the tenant had a rent credit of \$197.78cr at the end of September 2021, but no payments were made by the tenant for the months of October or November 2021, a total of \$1430.00, bringing the balance to \$1232.22 for the period ending 30 November 2021.

### **Analysis**

11. I accept the landlord's claim that the tenant's rental subsidy ended in September 2021 and that the tenant did not pay rent as required during the final months of his tenancy. I also accept that the tenant had a departing rental balance of \$1232.22 as of 30 November 2021. As such, her claim succeeds in that amount.

### **Decision**

12. The landlord's claim for a payment of rent succeeds in the amount of \$1232.22.

## Issue 2: Late Fees - \$75.00

### 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.*

The minister has prescribed the following:

*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.*

14. As the tenant has been arrears since 02 October 2021, the landlord is entitled to a payment of the maximum fee of \$75.00 set by the minister.

### Decision

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

## Issue 3: Security Deposit

16. The landlord stated that a \$528.00 security deposit had been paid on the tenant's behalf, through two payments in February and March 2019. As the landlord's claim for rent and late fees has been successful, she shall retain that security deposit as outlined in this decision and attached order.

### Summary of Decision

17. The landlord is entitled to the following:

- A payment of \$779.22, determined as follows:

- a) Rent Owing .....\$1232.22
- b) Late Fees .....\$75.00
- c) Less Security Deposit.....(\$528.00)
- d) Total.....\$779.22

26 September 2022

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Date

