

Residential Tenancies Tribunal

Application [REDACTED]

Decision 20-0249-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 AM on 23 August 2021 via teleconference.
2. The applicant, [REDACTED] hereinafter referred to as “the landlord”, participated in the hearing. The respondent, [REDACTED], hereinafter referred to as “the tenant”, did not participate.

Issues before the Tribunal

3. The landlord is seeking an order for a payment of rent in the amount of \$700.00.

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 section 18 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 served with notice of the hearing, by text-message, on 05 August 2021, and a copy of that text-message 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 - \$700.00

Relevant Submissions

7. The landlord stated that she had entered into a monthly rental agreement with the tenant on 01 December 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 \$500.00.
8. On 27 May 2021, the landlord stated that she had received a notification from Newfoundland Power (█ #2) informing her that the tenant had requested to cancel his electricity account, effective 01 June 2021. The tenant subsequently informed her that he was moving out, and an outgoing walkthrough was conducted on that date.
9. The landlord argued that as the tenant had not given her a proper, 1-month's notice that he was vacating, she is entitled to a payment of rent for June 2021, in lieu of notice.
10. The landlord testified that she was able to secure new tenants on 15 June 2021, and the rental period for this new tenancy runs from the 15th day of each month to the 14th day of the subsequent month. As she had received a half-month's rent for June 2021 from these new tenants, the landlord argued that she is still entitled to payment of \$350.00, covering the period from 01 June to 14 June 2021.

Analysis

11. Section 18 of the *Residential Tenancies Act, 2018* requires that a tenant provide a landlord with at least 1-month's notice that he is terminating his rental agreement. In a monthly tenancy, where a landlord does not receive proper notice of termination, she would be entitled to compensation for the loss of a month's rent, provided she mitigated her losses.
12. I find that the landlord had mitigated her damages given that she was able to find new tenants for 15 June 2021, even though she had only been given a 4-day notice that the tenant was vacating. As such, I agree with the landlord that she is entitled to compensation for a half month's rent.

Decision

13. The landlord's claim for a payment of rent succeeds in the amount of \$350.00.

Issue 2: Security Deposit

14. The landlord stated that the tenant had paid a security deposit of \$500.00 on 15 November 2020, and receipt of that deposit is acknowledged in the submitted rental agreement. As the landlord's claim for rent has succeeded, she shall retain that portion of the deposit, as outlined in this decision and attached order, and return the remainder to the tenant.

Issue 3: Hearing Expenses

15. With her application, the landlord submitted a copy of a receipt showing that she had paid \$25.00 to have a commissioner of oaths sign her affidavit, and a receipt showing that she had paid \$20.00 to file this application.
16. Policy with this Section is that the party who receives an award shall have their hearing expenses awarded also. But as it is the tenant who receives an award through this application, the landlord's claim for hearing expenses does not succeed.

Summary of Decision

17. The tenant is entitled to the following:

- a) Refund of Security Deposit\$500.00
- b) LESS: Rent Owing (\$350.00)
- c) Total Owing to Tenant.....\$150.00

23 March 2022

Date

