

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0384-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:16 PM on 15 November 2021 via teleconference.
2. The applicant, [REDACTED] was represented at the hearing by [REDACTED], hereinafter referred to as “the landlord”.
3. The respondents, [REDACTED], hereinafter referred to as “the tenants”, did not participate

Issues before the Tribunal

4. The landlord is seeking the following:
 - An order for a payment of rent in the amount of \$1,238.50,
 - An order for a payment of late fees in the amount of \$75.00.

Legislation and Policy

5. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
6. 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

7. The tenants were not present or represented at the hearing and I was unable to reach them 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 had sent the application and notice of the hearing to the tenants, by email, on 03 September 2021 and a copy of that e-mail was also submitted with her application. 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 - \$1,238.50

Relevant Submissions

8. The landlord testified that she had entered into a monthly rental agreement with the tenants on 01 July 2019. The agreed rent was set at \$870.00 per month and a security deposit in the amount of \$422.50 was collected on 14 June 2019.
9. The landlord testified that on 20 August 2021 she had issued the tenants a termination notice under section 19 of the *Residential Tenancies Act, 2018* (notice where failure to pay rent) and a copy of that notice was submitted with her application (LL #1). That notice had an effective termination date of 31 August 2021, but the tenants moved on 25 August 2021.
10. With her application, the landlord submitted a copy of her rent records showing the rent payments she had received from the tenants since they moved into the unit (LL #2). According to these records, the tenants had rent credit of \$1.50cr on 30 June 2021. Since then, these records show that the tenants had paid a total of \$500.00 in July 2021, and no payments were made for the month of August 2021, leaving a balance owing of \$1238.50. The landlord is seeking an order for a payment of that amount.

Analysis

11. I accept the landlord's claim that the tenants had not paid rent as required and I also accept her evidence which shows that the tenants are currently in arrears in the amount of \$1238.50. As such, her claim succeeds in that amount.

Decision

12. The landlord's claim for a payment of rent succeeds in the amount of \$1235.50.

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 tenants have been arrears since 02 July 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 a payment late fees succeeds in the amount of \$75.00.

Issue 3: Security Deposit

16. The landlord stated that the tenants had paid a security deposit of \$422.50 on 14 June 2019. As the landlord's claim has been successful, she shall retain that deposit as outlined in this decision and attached order.

Issue 4: Hearing Expenses

17. The landlord paid a fee of \$20.00 to file this application. As her claim has been successful, the tenants shall pay this hearing expense.

Summary of Decision

18. The landlord is entitled to the following a payment of \$911.00, determined as follows:

- a) Rent Owing\$1238.50
- b) Late Fees\$75.00
- c) Hearing Expenses.....\$20.00
- d) LESS: Security Deposit..... (\$422.50)
- e) Total\$911.00

18 August 2022

Date

