

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0431-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:16 AM on 13 October 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 \$4000.00;
 - b. An order for a payment of late fees in the amount of \$75.00; and
 - c. Authorization to retain the \$1500.00 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 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 her 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 his application stating that the tenant was personally served with notice of the hearing on 30 September 2021, by e-mail, and she has had 13 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 her absence.

Issue 1: Rent - \$4000.00

Relevant Submissions

7. The landlord stated that he had entered into a 1-year, fixed-term rental agreement with the tenant, commencing 01 July 2021, and a copy of the executed lease was submitted with his application (█#1). The agreed rent was set at \$2000.00 per month and it is acknowledged in the lease that the tenant had paid a security deposit of \$1500.00.
8. The landlord stated that the tenant paid her rent for July 2021, as required, but he had received no rent for August or September 2021. As a result, on 15 September 2021, the landlord issued the tenant a termination notice, and a copy of that notice was submitted with his application (█#2). That notice was issued under section 19 of the *Residential Tenancies Act, 2018* (notice where failure to pay rent) and it had an effective termination date of 26 September 2021. The tenant vacated in the first week of October 2021.
9. The landlord is seeking an order for a payment of rent in the amount of \$4000.00 for the months of August and September 2021.

Analysis

10. I accept the landlord's claim that the tenant had not paid rent as required and I agree with him that the tenant owes him \$4000.00 in rent for August and September 2021 (\$2000.00 per month x 2 months).

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11. The landlord's claim for a payment of rent succeeds in the amount of \$4000.00.

Issue 2: Late fees - \$75.00

Relevant Submissions

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

Analysis

13. 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.*

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

Issue 3: Security Deposit

16. The landlord stated that the tenant paid a security deposit of \$1500.00 on 26 June 2021 and receipt of that deposit is acknowledged in the submitted lease. As the landlord's claim has been successful, he shall retain that deposit as outlined in this decision and attached order.

Summary of Decision

17. The landlord is entitled to the following:

- a) Rent Owing\$4000.00
- b) Late Fees\$75.00
- c) **LESS: Security Deposit..... (\$1500.00)**
- d) Total Owing to Landlord\$2575.00

27 July 2022

Date

