

## Residential Tenancies Tribunal

Decision 19-442-05

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 11:15 am on 03 July 2019 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED], was represented at the hearing by [REDACTED], hereinafter referred to as “the landlord”. [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 \$1160.00, and
  - b. 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 is section 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. 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 she has been properly served. The landlord submitted an affidavit stating that the tenant was served with notice of the hearing, by e-mail, on 18 June 2019 and she has had 14 days to provide a response. The landlord also submitted a copy of that e-mail and he pointed out that the tenant had provided him with that e-mail address when she signed the rental agreement. 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 Owning - \$1160.00**

### **Relevant Submissions**

#### The Landlords' Position

7. The landlord stated that she had entered into a 1-year, fixed-term rental agreement with the tenant, commencing 01 May 2018, and a copy of that executed lease was submitted at the hearing (█ #1). The agreed rent was set at \$1160.00 per month.
8. The landlord testified that the tenant had not paid him any rent for the months of June and July 2019 and he is seeking an order for a payment of rent for those 2 months.

### **Analysis**

9. I accept the landlord's claim that the tenant had not paid rent as required. As the landlord is also seeking an order for vacant possession of the rental unit, I find that he is entitled to a payment of rent to the date of the hearing and a per diem thereafter.
10. I calculate the rent owing to be \$1274.42 (\$1160.00 owing for June 2019 and \$114.42 for July 2019 (\$1160.00 per month x 12 months = \$13,920.00 per year ÷ 365 days = \$38.14 per day x 3 days = \$114.42)).

### **Decision**

11. The landlord's claim for a payment of rent succeeds in the amount of \$1274.42.
12. The tenant shall pay a daily rate of rent in the amount of \$38.14, beginning 04 July 2019, and continuing to the date the landlord obtains vacant possession of the rented premises.

## Issue 2: Vacant Possession of the Rented Premises

### Relevant Submissions

#### The Landlords' Position

19. With his application, the landlord submitted a copy of a termination notice (█ #2) which he stated he had sent to the tenant by e-mail on 10 June 2019. A copy of that e-mail was also submitted at the hearing (█ #3).
20. This termination notice was issued under section 19 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 21 June 2019.
21. The landlord is seeking an order for vacant possession of the rented premises.

### Analysis

22. Section 19 of the *Residential Tenancies Act, 2018* states:

#### ***Notice where failure to pay rent***

***19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),***

...

*(b) where the residential premises is*

*(i) rented from month to month,*

*(ii) rented for a fixed term, or*

*(iii) a site for a mobile home, and*

*the amount of rent payable by a tenant is overdue for 5 days or more, the landlord may give the tenant notice that the rental agreement is terminated and that the tenant is required to vacate the residential premises on a specified date not less than 10 days after the notice is served on the tenant.*

23. According to the landlord's testimony, on 10 June 2019 the tenant was in arrears in the amount of \$1160.00 and had been in arrears since the beginning of that month. No payments have been received since the notice was issued and since that time rent for July 2019 has also come due.
24. As the notice meets the timeframe requirements set out in section 19 of the *Act* it is a valid notice.

## Decision

25. The landlord's claim for an order for vacant possession of the rented premises succeeds.
26. The tenant shall pay to the landlord any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.

## Summary of Decision

27. The landlord is entitled to the following:
  - A payment of rent in the amount of \$1274.42,
  - A payment of a daily rate of rent in the amount of \$38.14, beginning 04 July 2019 and continuing to the date the landlord obtains possession of the rental unit,
  - An order for vacant possession of the rented premises,
  - The tenant shall also pay to the landlord any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.

05 July 2019

\_\_\_\_\_  
Date

  
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John R. Cook  
Residential Tenancies Tribunal