

Residential Tenancies Tribunal

Decision 19-0453-05

Denise O'Brien
Adjudicator

Introduction

1. The hearing was called at 1:20 p.m. on July 8, 2019 at Residential Tenancies, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The landlord, [REDACTED], represented by [REDACTED], hereafter referred to as the landlord, participated in the hearing.
3. The tenant, [REDACTED], hereafter referred to as the tenant, did not attend the hearing.

Preliminary Matters

4. The landlord discontinued the claim for vacant possession as the landlord took back possession of the unit on June 11, 2019. The claim for the payment of rent was amended from \$1813.57 to \$1460.64.
5. The tenant was not present or represented at the hearing. Prior to the start of the hearing I called the number on file for the tenant but I was unable to reach the tenant. This Tribunal's policy concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) a respondent to an application must be served with the application for dispute resolution 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/she has been properly served.

6. The affidavit of service submitted by the landlord shows that the notice of this hearing was sent electronically to the tenant on June 14, 2019 and the tenant has had 23 days to provide a response. The landlord provided a copy of the e-mail sent on June 14, 2019. The tenant provided her e-mail address through an e-mail. As the tenant was properly served with the application for dispute resolution, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in her absence

Issues before the Tribunal

7. The landlord is seeking the following:
 - a. Payment of rent in the amount of \$1460.64;
 - b. Hearing expenses.

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in the Residential Tenancies Act, 2018 (the Act), Section 47.
9. Also relevant and considered in this case are Sections 19, 34 and 35 of the Act and Policy 12-1: *Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF*.

Issue 1: Payment of rent - \$1460.64

10. In determining an application for the payment of rent, the landlord is required to establish the rental rate and the payment record.

Landlord Position

11. The landlord testified that the tenant moved into the unit on November 6, 2016 on a month to month tenancy with rent set at \$263.00 per month due on the 1st of each month. The tenant had a credit of 0.43¢ at the end of September 2018. Since September 2018 the tenant has made 4 payments towards the rent. The landlord sent a termination notice by registered mail to the tenant on May 1, 2019 to vacate on May 27, 2019. On June 11, 2019 the landlords took back possession of the unit. The rent was adjusted to reflect rent due up to June 11, 2019.
12. The landlord submitted a copy of the termination notice (LL #1), statement of rent account (LL #2) and review of household income and composition (LL #3).

Analysis

- 13. I have reviewed the testimony and evidence of the landlord and I have determined that there is one issue that needs to be addressed; is rent owing. Based on the statement of rent account I find the tenant fell into arrears in October and since that time she has made 4 payments towards the rent. Also the landlord is seeking rent up to the date they took back possession of the unit. The claim for payment of rent succeeds in the amount of \$1460.64.

Decision

- 14. The landlord’s claim for rent succeeds as per the following:
 - a. Rent owing up to June 11, 2019 \$1460.64

Issue 2: Hearing Expenses - \$20.00

- 15. Under the authority of Section 47.(q) the director may require the unsuccessful party to pay costs to the successful party to an application. Costs eligible to be awarded are identified in *Policy 12-1: Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF*.

Landlord Position

- 16. The landlord paid an application filing fee in the amount of \$20.00. The landlord is seeking this cost.

Analysis

- 17. The cost the landlord incurred to make the application is considered a reasonable expense as per *Policy 12-1 Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF*. Therefore, I find the tenant is responsible to cover the cost of the hearing expenses in the amount of \$20.00.

Decision


- 18. The tenant shall pay the landlord’s hearing costs in the amount of \$20.00.

Summary of Decision

19. The landlord is entitled to the following:

- a) Payment of rent \$1460.64
- b) Hearing expenses..... \$20.00
- c) Total owing to Landlord \$1480.64

September 4, 2019
Date


Residential Tenancies Section