

Residential Tenancies Tribunal

Decision 19-0510-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:20 am on 13 August 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”. 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 \$1680.00;
 - b. An order for a payment of late fees in the amount of \$75.00; and
 - c. 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 are sections 15, 19 and 21 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 a 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 the tenant was personally served with notice of the hearing on 04 July 2019 and he has had 39 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 his absence.

7. The landlord amended his application at the hearing. She stated that she was no longer seeking an order for possession of the rented premises as the tenant moved out on 30 June 2019.

Issue 1: Rent - \$1680.00

Relevant Submissions

8. The landlord stated that she had entered into a 1-year, fixed-term rental agreement with the tenant commencing 01 December 2018 and a copy of the executed lease was submitted at the hearing (█ #1). The agreed rent was set \$840.00 and it is acknowledged in the lease that the tenant had paid a security deposit of \$630.00.
9. In May 2019 the tenant fell into rental arrears and in June 2019 the electricity to his apartment was disconnected. Because of these issues, on 26 June 2019, the landlord issued the tenant a termination notice and a copy of that notice was submitted with her application. That notice was issued under sections 19 (notice where failure to pay rent) and 21 (notice where premises uninhabitable) of the *Residential Tenancies Act, 2018* and it had an effective termination date of 26 June 2019. The tenant vacated on 30 June 2019.
10. With her application, the landlord also submitted a copy of her rent records (█ #3). These records show that the tenant paid no rent for May or June 2019. The landlord is seeking an order for a payment of rent for those 2 months in the amount of \$1680.00 (\$840.00 per month x 2 months).

Analysis and Decision

11. I accept the landlord's testimony and evidence in this matter and I find that the tenant had not paid rent as required for May and June 2019.
12. The landlord's claim for a payment of rent succeeds in the amount of \$1680.00.

Issue 2: Late fees - \$75.00

Relevant Submissions

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

Analysis

14. 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.*

15. 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.

Decision

16. As the tenant has been in arrears since 02 May 2019, the landlord is entitled to an award for the maximum fee of \$75.00 set by the minister.

Issue 3: Hearing Expenses

17. The landlord paid \$20.00 to file this application. As the landlords' claim has been successful, the tenant shall pay this hearing expense.

Issue 4: Security Deposit

18. The landlord stated that the tenant had a security deposit of \$630.00 on 11 December 2018 and receipt of that deposit is acknowledged in the submitted lease. As the landlord's claim has been successful, she shall retain that deposit as outlined in this decision and order.


Summary of Decision

19. The landlord is entitled to the following:

- a) Rent Owing\$1680.00
- b) Late Fees\$75.00
- c) Hearing Expenses.....\$20.00
- d) LESS: Security Deposit..... (\$630.00)
- e) Total Owing to Landlord\$1145.00

23 December 2019

Date



John R. Cook
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