

Residential Tenancies Tribunal

Decision 19-0879-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 am on 08 January 2020 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing. 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 compensation for inconvenience in the amount of \$275.00,
 - b. An order for a payment of rent in the amount of \$600.00, and
 - c. Authorization to retain the security deposit in the amount of \$275.00.

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 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 him by telephone from the hearing room. 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 testified that the tenant was served with notice of the hearing, by e-mail, on 13 November 2019 and he has had 54 days to provide a response. A copy of that e-mail was also submitted with the landlord's application and he stated that the tenant gave him that e-mail address via a text-message. 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 and stated that he was no longer seeking an order for compensation for inconvenience. He also stated that he was now seeking an additional \$1200.00 in rent for a total claim of \$1800.00.

Issue 1: Rent - \$1800.00

Relevant Submissions

8. The landlord moved into the rental unit with 3 roommates on 01 September 2019. On 01 November 2019, he sublet his room to the tenant and a copy of their executed rental agreement was submitted at the hearing (█ #2).
9. This agreement was set to run for 10 months. The agreed rent was set at \$600.00 per month and the landlord stated that the tenant had paid a security deposit of \$275.00 on 05 October 2018
10. The landlord testified that the tenant failed to pay his rent for November 2019 and in the early part of that month he had a telephone conversation with the tenant in which he was informed that the tenant decided to move into a different apartment.
11. The landlord stated that he immediately started advertising the unit for rent again on Kijiji and Facebook and he claimed that the tenant was even making efforts on Facebook to find someone to move into the room and pay the rent.
12. Despite those efforts, the landlord claimed that, to the date of the hearing, he has not found a new tenant and he has received no rent for November 2019, December 2019 or January 2020. He is seeking an order for a payment of \$1800.00 for those 3 months.

Analysis

13. I accept the landlord's claim that he had entered into a sublease agreement with the tenant that commenced 01 November 2019. Although the tenant is not living at the unit, he had not terminated his agreement with the landlord and he is still responsible for the rent that is owing for the duration of the lease.

14. I also accept the landlord's claim that he had received no rent from the tenant since the lease began and that he had mitigated his loss of rental income by advertising the room for re-rent.
15. As such, the landlord's claim for rent succeeds to the date of the hearing. I calculate that the tenant owes \$1354.84 (\$600.00 for each of November and December 2019 and \$154.84 for January 2020 (\$600.00 ÷ 31 days x 8 days)).

Decision

16. The landlord's claim for a payment of rent succeeds in the amount of \$1354.84.

Issue 2: Security Deposit

Relevant Submissions

17. The landlord stated that the tenant paid a security deposit of \$275.00 on 05 October 2019. As the landlord's claim for rent has been successful, he shall retain that security deposit as outlined in this decision and attached order.

Issue 3: Hearing Expenses

18. As the landlord's claim has been successful, the tenant shall pay his hearing expense of \$20.00 for the costs of filing this application.


Summary of Decision

19. The landlord is entitled to the following:

- a) Rent Owing\$1354.84
- b) Hearing Expenses\$20.00
- c) LESS: Security Deposit..... (\$275.00)
- d) Total Owing to Landlord\$1099.84

23 April 2020

Date



John R. Cook
Residential Tenancies Tribunal