

Residential Tenancies Tribunal

Decision 19-0941-05

Denise O'Brien
Adjudicator

Introduction

1. The hearing was called at 9:25 a.m. on February 11, 2020 at Residential Tenancies, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED], represented by [REDACTED] and [REDACTED], hereafter referred to as the landlord, participated in the hearing.
3. The respondent, [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 tenant vacated on January 13, 2020. They also amended the claim for payment of rent from \$789.00 to \$896.36.
5. The tenant was not present or represented at the hearing. Prior to the start of the hearing I called the number on file but I was unable to reach her. 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 the hearing scheduled for January 23, 2020 was sent by registered mail and the registered mail was returned to the landlord on January 2, 2020. The hearing was postponed due to our office being closed. The notice of rescheduled hearing was sent by e-mail on January 27, 2020. 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 \$896.36;
 - 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 Section 19 of the Act and Policy 12-1: *Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF*.

Issue 1: Issue 1: Payment of rent - \$896.36

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 October 1, 2016 on a month to month tenancy with rent set at \$263.00 per month due on the 1st of each month. The rent was paid in full up to September 2019. Since receiving the rent for September 2019 they have not received any monies from the tenant. On November 1, 2019 the tenant was served a termination notice under section 19 (failure to pay rent) of the Act to vacate on November 25, 2019. The tenant did not pay the rent and she vacated the unit on January 13, 2020. The landlord submitted into evidence a copy of the rent ledger (LL #1).

Analysis

12. I have reviewed the testimony and evidence of the landlord. I have determined that there is one issue that needs to be addressed; is rent owing. I find that

since September 2019 the landlords have not received any monies from the tenant. I also find that a termination notice was served on the tenant on November 1, 2019 and the tenant vacated on January 13, 2020. Rent is owed in the amount of \$263.00 for each month for the months of October – December 2019. \$112.06 ($\$263.00 \times 12 \text{ months} = \$3156.00 \div 366 \text{ days} = \$8.62 \text{ per day} \times 13 \text{ days} = \112.06) is owed for the period January 1 – 13, 2020.

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13. The landlord’s claim for rent succeeds as per the following:

a. Rent owing for October 2019	\$263.00
b. Rent owing for November 2019.....	\$263.00
c. Rent owing for December 2019.....	\$263.00
d. Rent owing for January 1 – 13, 2020	<u>\$112.06</u>
e. Total rent owing.....	\$901.062

Issue 2: Hearing Expenses - \$20.00

14. 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

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

Analysis

16. 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*. As the landlord’s claim was successful, the tenant is responsible to cover the cost of the hearing expenses in the amount of \$20.00.

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

Summary of Decision

18. The landlord is entitled to the following:

- a) Payment of rent..... \$901.06
- b) Hearing expenses \$20.00
- c) Total owing to landlord \$921.06

February 19, 2020
Date


Residential Tenancies Section