

Residential Tenancies Tribunal

Decision 20-0194-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:04 pm on 11 September 2020 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing. The respondent, [REDACTED], hereinafter referred to as “the tenant”, also participated.

Issues before the Tribunal

3. The landlord is seeking the following:
 - An order for compensation for inconvenience in the amount of \$5.00,
 - An order for compensation for damages in the amount of \$207.00,
 - An order for a payment of rent in the amount of \$500.00, and
 - An order for a payment of late fees in the amount of \$75.00.

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 decision is section 15 of the *Residential Tenancies Act, 2018* and policy 9-3: Claims for Damage to Rental Premises.

Preliminary Matters

6. The tenant called the following witness:
 - [REDACTED] (“[REDACTED]”) – tenant’s step-mother

Issue 1: Compensation for Inconvenience - \$5.00

Relevant Submissions

The Landlord's Position

7. The landlord stated that she had entered into a monthly rental agreement with the tenant on 06 February 2020 and a copy of that executed agreement was submitted with her application. The agreed rent was set at \$500.00 per month.
8. The landlord stated that the tenant fell into rental arrears shortly after she moved in and on 18 March 2020 she issued her a termination notice. That notice was issued under section 19 of the *Residential Tenancies Act, 2018* (notice where failure to pay rent) and it had an effective termination date of 29 March 2020. The tenant vacated on 12 April 2020.
9. The landlord stated that the tenant failed to return her room key to her after she vacated and she had to have it replaced. She pointed to an addendum to the rental agreement which states that the tenant would pay a \$5.00 fee if she lost her key and the landlord is seeking an order for a payment of that amount.

The Tenant's Position

10. The tenant acknowledged that she had not returned her key to the landlord after she vacated and she also acknowledged that she had agreed to pay a fee of \$5.00 for any replacement keys.

Analysis and Decision

11. As the tenant did not contest this portion of the landlord's claim, her claim succeeds in the amount of \$5.00.

Issue 2: Compensation for Damages - \$207.00

Relevant Submissions

The Landlord's Position

12. The landlord complained that the tenant had left her room in a very messy state after she had vacated and she submitted photographs with her application showing its condition. These photographs show that there was garbage left in the room, as well as other personal items and pieces of clothing which the tenant did not remove when she vacated. The landlord also pointed to a photograph showing that there was a white stain on the carpet in the tenant's room.

13. In addition to the garbage and clothing left behind in the room, the landlord pointed out that there were numerous intravenous syringes left behind as well. She claimed that she would not have been comfortable handling those syringes so she hired a professional cleaner. She submitted an invoice with her application showing that she was charged \$253.00 to have the tenant's room cleaned and to have the carpets on the steps cleaned as well. The landlord is seeking reimbursement for \$207.00 of that amount.

The Tenant's Position

14. The tenant acknowledged that she had left behind some clothing and toiletries at the apartment, and she also agreed that she had left behind several bottles containing syringes.
15. With respect to the carpet, the tenant claimed that the substance seen in the photograph is just baking soda and she therefore argued that the landlord did not have to hire a professional to clean her room. Nevertheless, the tenant did state that she believed that the landlord was entitled to the \$207.00 she was seeking here.

Analysis and Decision

16. Again, as the tenant did not contest this portion of the landlord's claim, I find that she is entitled to an award of \$207.00.

Issue 3: Rent - \$500.00

Relevant Submissions

The Landlord's Position

17. The landlord submitted rent records with her application and she pointed out that because the tenant was late paying her rent for March 2020, she issued her a termination notice on 18 March 2020. The tenant was supposed to vacate on 29 March 2020, but the landlord stated that she continued to reside at the unit after that date. Regarding the rent for March 2020, the landlord claimed that it was eventually paid in full by 01 April 2020.
18. The landlord testified that she had been pleading with the tenant to move out of the unit and she had even offered to forgive her the rent for April 2020 if she vacated by 06 April 2020 and had her room cleaned before she moved out.
19. The landlord stated that because the tenant had left such a mess in her room and because she did not move out by 29 March 2020 as required, or by the extended date of 06 April 2020, she is seeking a payment of rent for the month of April 2020.

20. The landlord testified that after she had the room cleaned by the professional cleaners, she posted the room for rent on Kijiji and Facebook Marketplace. She stated that she was not able to secure new tenants until 22 May 2020 and she claimed that the unit sat vacant during the month of April 2020. The landlord is seeking an order for a payment of \$500.00 in compensation for the loss of rental income she suffered during April 2020.

The Tenant's Position

21. The tenant stated that it was her view that she is not responsible for rent for April 2020 as she was unable to move out of the unit anytime before 12 April 2020.
22. She stated that due to the COVID-19 pandemic, she was unable to avail of the use of any homeless shelters or drug-recovery shelters and she also claimed that she knew no one else in St. John's who would be able to take her in.
23. The tenant stated that because she had no where else to go, she had no choice but to continue to reside at the unit until 12 April 2020 when her step-mother, ■■■, was finally able to make her way in from ■■■ to pick her up. This timeline of events was corroborated by ■■■.

Analysis

24. There is no dispute that the tenant had use and enjoyment of her room up to 12 April 2020 and I therefore find that the tenant owes rent for those 12 days of April 2020.
25. I also find that she is responsible for the loss of rental income the landlord had suffered for the remainder of that month.
26. It was not disputed that the tenant had not cleaned her room before she vacated and I accept the landlord's argument that because of the hazardous materials left behind by the tenant, she was required to hire professional cleaners.
27. Given that it would take some time to hire these cleaners, have the room cleaned and then advertise the unit for re-rent, I find that it would have been very unlikely that the landlord would have been able to get new tenants into that room during April 2020.
28. As the landlord mitigated her damages by taking all reasonable steps to put new tenants in place as soon as possible, I find that she is entitled to a payment of rent for the full month of April 2020.

Decision

29. The landlord's claim for a payment of rent succeeds in the amount of \$500.00.

Issue 4: Late Fees - \$75.00

Relevant Submissions

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

Analysis

31. 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.*

32. 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.

33. As the tenant has been in rental arrears since 02 April 2020, the landlord is entitled to an award for the maximum fee of \$75.00 set by the minister.

Decision

34. The landlord's claim for late fees succeeds in the amount of \$75.00.

Summary of Decision

35. The landlord is entitled to the following:

a) Fee for Lost Key \$5.00
b) Compensation for Damages..... \$207.00
...

c) Rent..... \$500.00
d) Late Fees \$75.00
e) Total Owing to Landlord \$787.00

24 November 2020

Date



John R. Cook
Residential Tenancies Tribunal