

## Residential Tenancies Tribunal

Decision 21-0003-05

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 9:02 am on 20 January 2021 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:
  - a. An order for a payment of rent in the amount of \$850.00, and
  - b. 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 is section 19 of the *Residential Tenancies Act, 2018*.

### Preliminary Matters

6. This is the second application the landlord had filed against the tenant during this tenancy. A previous application ([REDACTED]) was heard on 04 December 2020 and as a result of that hearing, the landlord was awarded rent in the amount of \$3650.00 for the period ending 31 December 2020. His claim for an order for possession of the rented premises did not succeed.

## **Issue 1: Rent - \$850.00**

### **Relevant Submissions**

#### The Landlord's Position

7. The landlord stated that he had entered into a monthly rental agreement with the tenant on 17 December 2018. The agreed rent is set at \$850.00 per month and the landlord stated that the tenant had paid a security deposit of \$425.00.
8. As indicated in Preliminary Matters, above, it was determined in the previous hearing that the tenant had been in rental arrears since July 2020 and that she owed the landlord \$3650.00 for the period ending 31 December 2020. The landlord stated that the tenant has not paid any of the amount awarded to him and he claimed that the tenant now also owes him rent for January 2021: \$850.00.

#### The Tenant's Position

9. The tenant acknowledged that she owes the landlord \$850.00 in rent for January 2021.

### **Analysis**

10. It is not disputed that the tenant owes the landlord rent for January 2021.
11. As the landlord is also seeking an order for vacant possession of the rented premises, I find that he is entitled to a payment of rent to the date of the hearing and a per diem thereafter. I calculate the amount owing to be \$559.00 ( $\$850.00$  per month  $\times$  12 months =  $\$10,200.00$  per year  $\div$  365 days =  $\$27.95$  per day  $\times$  20 days =  $\$559.00$ )

### **Decision**

12. The landlord's claim for a payment of rent succeeds in the amount of \$559.00.
13. The tenant shall pay a daily rate of rent in the amount of \$27.95, beginning 21 January 2021, and continuing to the date the landlord obtains vacant possession of the rented premises.

## Issue 2: Vacant Possession of Rented Premises

### Relevant Submissions

#### The Landlord's Position

14. With his application, the landlord submitted a copy of a termination notice which he stated was sent to the tenant, by e-mail, on 15 December 2020 and personally delivered to her unit on that same day.
15. That notice was issued under section 19 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 31 December 2020.
16. The tenant has not vacated the rented premises as required and the landlord is seeking an order for vacant possession of the rented premises.

#### The Tenant's Position

17. The tenant acknowledged that she had received the termination notice that had been sent to her on 15 December 2020.

### Analysis

18. Section 19 of the *Residential Tenancies Act, 2018* states:

#### ***Notice where failure to pay rent***

**19. (1) *Notwithstanding subsection 18(2) and paragraph 18(3)(b),***

...

***(b) where the residential premises is***

***(i) rented from month to month,***

***(ii) rented for a fixed term, or***

***(iii) a site for a mobile home, and***

***the amount of rent payable by a tenant is overdue for 5 days or more, the landlord may give the tenant notice that the rental agreement is terminated and that the tenant is required to vacate the residential premises on a specified date not less than 10 days after the notice is served on the tenant.***

***(2) Notwithstanding subsection (1), where the tenant pays the full amount of the overdue rent, including a fee under section 15, before the date specified in the notice under paragraph (1)(a) or (b), the rental***

*agreement is not terminated and the tenant is not required to vacate the residential premises.*

19. As it was determined in the previous hearing, the tenant had been in rental arrears since July 2020 and on 15 December 2020 she owed the landlord \$3650.00 in rent. No payments were made to the landlord after the notice was issued and since then rent for January 2021 has also come due.
20. As the termination notice meets all the requirements set out in section 19 of the Act, it is a valid notice.

### **Decision**

21. The landlord's claim for an order for vacant possession of the rented premises succeeds.
22. The tenant shall pay to the landlord any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.

### **Issue 3: Security Deposit**

23. The landlord stated that the tenant had paid a security deposit of \$450.00 on 17 December 2018. As the landlord's claim has been successful, he shall retain that security deposit as outlined in this decision and attached order.

### **Summary of Decision**


24. The landlord is entitled to the following:
  - A payment of \$109.00, determined as follows:
    - a) Rent Owing .....\$559.00
    - b) LESS: Security Deposit..... (\$450.00)
    - c) Total.....\$109.00
  - An order for vacant possession of the rented premises,
  - A payment of a daily rate of rent in the amount of \$27.95, beginning 21 January 2021 and continuing to the date the landlord obtains possession of the rental unit,

- The tenant shall also pay to the landlord any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.

20 January 2021

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Date



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John R. Cook  
Residential Tenancies Tribunal