

## Residential Tenancies Tribunal

Decision 19-0006-01

Michael Greene  
Adjudicator

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### Introduction

1. The hearing was called at 1:30 pm on 20 February 2019 at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador via Bell Teleconferencing System.
2. The applicant, [REDACTED], hereafter referred to as the landlord, participated in the hearing.
3. The respondent, [REDACTED], hereafter referred to as the tenant, participated in the hearing.
4. The details of the claim were presented as a written monthly rental agreement with rent set at \$900.00 per month and due on the 22<sup>nd</sup> of each month. It was stated that a security deposit in the amount of \$450.00 was collected on or about May 3, 2018 and the landlord issued a termination notice dated October 1, 2018 for the intended termination date of October 10, 2018 under Section 18 of the *Residential Tenancies Act*.
5. In a proceeding under the *Residential Tenancies Act, 2018*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

## Preliminary Matters

There were no preliminary matters to address.

## Issues before the Tribunal

6. The landlord is seeking the following:
  - a) Payment of rent owing **\$1300.00**
  - b) Payment of late fees **\$75.00**
  - c) Hearing expenses

## Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in the *Residential Tenancies Act, 2018 (the Act)*, Section 47.
8. Also relevant and considered in this case are Sections 19, 34 and 35 of *the Act*, and Policy 12-1: *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*.

## Issue 1: Rent Owing - \$1300.00

### Relevant Submissions

#### Landlord Position

9. The landlord stated that he had entered into a written rental agreement with the tenant, commencing May 5, 2018. The agreed rent was set at \$900.00 per month and due on the 22<sup>nd</sup> day of each month with a security deposit in the amount of \$450.00 collected on this tenancy. The landlord issued a termination notice for the intended date of October 10, 2018. The landlord stated that not all rent was received from the tenant for September and October 2018 with the balance outstanding being \$1300.00 up to and including 21 October 18. The landlord stated as of the hearing date 20 February 2019 rent remains outstanding.

#### Tenant Position

10. The Tenant acknowledges the rental arrears and accepts full responsibility.

## Analysis

11. I have reviewed the testimony and evidence of the landlord and tenant in this matter. As far as I can see, there is one issue here that needs to be addressed: (i) is the rent that is being claimed by the landlord actually owed by the tenant.
12. With respect to the arrears being claimed, I agree with the landlord and tenant that rent is owed. Rent is required to be paid by the tenant for use and occupation of the rented premises as set out in the rental agreement established when the tenancy began. The tenant has accepted responsibility and acknowledged the arrears being claimed in the amount of \$1300.00.

## Decision

13. The landlord's total claim for rent succeeds as follows:
  - a) Rent owing up to October 21, 2018..... \$1300.00
  - b) Total Arrears ..... **\$1300.00**

## Issue 2: Payment of Late Fees - \$75.00

### Landlord Position

14. The landlord is seeking payment of late fees as a result of the tenant's failure to pay rent on time.
15. The landlord testified that the tenant has been in arrears since September 2018. The landlord indicated that he is seeking late fees as prescribed under the *Residential Tenancies Regulations, 2018*.

## Analysis

16. Established by undisputed fact in paragraph 9, the tenant was in arrears for the period ending October 21, 2018. The *Residential Tenancies Regulations, 2018* allows for a late fee of \$5.00 for the 1<sup>st</sup> day and \$2.00 for every day thereafter to a maximum of \$75.00 per late period.
17. Any calculated amount of late fees would far exceed the maximum allowable permitted under regulations.
18. The issue of rental arrears has been determined in paragraph 13 above confirming that the tenant owes rent to the landlord.

**Decision**

19. The landlord’s claim for late fees succeeds in the amount of \$75.00 as calculated up to and including the hearing date (February 20, 2019).

**Issue 3: Hearing Expenses**

Landlord Position

20. The landlord paid a fee in the amount of \$20.00 as an application filing fee and presented a receipt from Service NL [REDACTED] (**Exhibit L # 2**). The landlord is seeking this cost.

**Analysis**

21. I have reviewed the testimony and evidence of the landlord in this matter. The expenses incurred by the landlord are considered a reasonable expense and are provided for with in Policy 12-1 *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*. As such, I find the tenant is responsible to cover these reasonable expenses.

**Decision**

22. The tenant shall pay the reasonable expenses of the landlord in the amount of \$20.00.

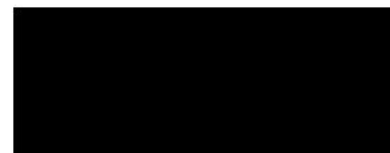
**Summary of Decision**

23. The landlord is entitled to the following:

a)	Rent Owing .....	\$1300.00
b)	Late Fees.....	75.00
b)	Hearing Expenses .....	<u>\$20.00</u>
c)	<b>Total owing to Landlord .....</b>	<b>\$1395.00</b>

March 4, 2019

**Date**



**Michael Greene**  
**Residential Tenancies Tribunal**