

Residential Tenancies Tribunal

Decision 19-0015-04

Michael Greene
Adjudicator

Introduction

1. The hearing was called at 1:00 pm on 30 September 2019 at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador.
2. The applicant, [REDACTED], hereafter referred to as the landlord, participated in the hearing. The landlord was represented by [REDACTED], **Housing Officer**. (*Affirmed*)
3. The respondent, [REDACTED], hereafter referred to as the tenant, did not participate in the hearing.
4. The details of the claim were presented as a written monthly rental agreement with rent set at \$459.00 per month and due on the 1st of each month. There was no security deposit collected on the tenancy. The landlord issued a termination notice dated 11 December 2018 for the intended termination date of 31 December 2018 under Section 18 of the *Residential Tenancies Act, 2000*. The tenant vacated the unit on or about 18 January 2019.
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

6. The tenant, [REDACTED], was not present or represented at the hearing. The Tribunal's policies concerning notice requirements and hearing attendance has been adopted from the *Rules of the Supreme Court, 1986*.
 - a. Rule 29.05(2)(a) states *a respondent to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date* and, 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*.

The affidavit submitted by the landlord shows that the tenant was served with the notice of this hearing on the **16 July 2019** by serving the documents to the tenants via registered mail to the address [REDACTED]. The tenant signed for the document on 16 July 2019 and has had **75 days** to provide a response.

Phone contact was attempted to the tenant prior to the hearing with the following results:

[REDACTED]: **No Answer.**

As the tenant was properly served in accordance with the *Residential Tenancies Act, 2018*, with the application for dispute resolution, and as any further delay in these proceedings would unfairly disadvantage the landlord applicant, I proceeded with the hearing in the tenants' absence.

Issues before the Tribunal

7. The landlord is seeking the following:
 - a) Payment of rent owing **\$1695.82**
 - 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 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 - \$1695.82

Relevant Submissions

Landlord Position

10. The landlord stated that the parties entered into a written rental agreement with the tenant, commencing 26 May 2016. The agreed rent was set at \$459.00 per month and due on the 1st day of each month with no security deposit collected on this tenancy. The landlord issued a termination notice on 11 December 2018 for the intended date of 31 December 2018. The landlord stated the tenant vacated the unit on or about 18 January 2019.
11. The landlord is seeking rental arrears left on account when the tenant vacated the unit up to the vacating date of 18 January 2019 in the amount of \$1695.82. The landlord submitted into evidence rental records to establish the arrears (**Exhibit L # 2**) along with a copy of the rental agreement (**Exhibit L # 1**) establishing the tenancy.

Analysis

12. I have reviewed the testimony and evidence of the landlord 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.
13. With respect to the arrears being claimed, I agree with the landlord 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. Records are clear that rent is owing up to and including 31 December 2018 in the amount of **\$1433.00**. Rent for January 2019 can only be awarded up to and including the date the tenant vacated (18 January 2019) calculated as $(\$459.00 \times 12 \text{ months} = \$5508.00 \div 365 \text{ days} = \$15.09 \text{ per day} \times 18 \text{ days} = \$271.62)$. Rent for January 1 – 18, 2019 then is **\$271.62**.

Decision

14. The landlord’s total claim for rent succeeds as follows:

- a) Rent owing up to 31 December 2018 \$1433.00
- b) Rent owing for January 1 - 18, 2019 271.62

- c) Total Arrears **\$1704.62**

Issue 2: Hearing Expenses

Landlord Position

15. 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 # 3**). The landlord further paid a fee to Canada Post in the amount of \$12.50 for Registered Mail Service (**Exhibit L # 4**). The landlord is seeking these costs.

Analysis

16. 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

17. The tenant shall pay the reasonable expenses of the landlord in the amount of \$32.50.

Summary of Decision

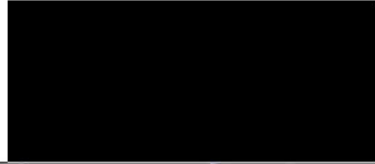
18. The landlord is entitled to the following:

- a) Rent Owing (up to and including 18 January 2019)\$1704.62
- b) Hearing Expenses32.50

- b) Total owing to Landlord\$1737.12**

28 November 2019

Date



Michael Greene
Residential Tenancies Tribunal