

Residential Tenancies Tribunal

Application 2024-0781-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 2:00 p.m. on 2-October-2024.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the tenant” did not attend.

Preliminary Matters

4. The tenant was not present or represented at the hearing and I was unable to reach her by telephone at the start of the hearing. This Tribunal’s policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of the hearing 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 she has been properly served. The landlord’s representative submitted an affidavit with their application stating that they had served the tenant with the notice of the hearing on 6-September-2024 via email; [REDACTED] (LL#1). The landlord’s representative submitted a proof confirming that this email address belongs to the tenant and has also provided proof that the email was sent on 6-September-2024. In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, the hearing proceeded in her absence.
5. There was a written month to month rental agreement which commenced on 1-May-2013. The tenant moved out on 1-August-2024. Rent was \$671.00 per month due on the first of each month. A security deposit was never paid.
6. The landlord’s representative amended their application to exclude validity of termination notice, to amend the amount of rent from \$7189.00 as per application to \$7440.85, and to include hearing expenses of \$20.00.

Issues before the Tribunal

7. The landlord is seeking:
 - Rent \$7440.85;
 - Hearing expenses \$20.00.

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
9. Also, relevant and considered in this decision is following section of the *Residential Tenancies Policy Manual*: Section 12-1: Recovery of Costs.

Issue # 1: Rent Paid \$7440.85

Landlord's Position

10. The landlord's representative stated that the outstanding rent amount is \$7440.85 and the rent has been overdue for a significant period of time with the tenant having a zero balance as of November 2020. Since then, the rent has consistently been late or overdue. The landlord's representative stated that the last payment made by the tenant was in June-2024. The landlord is seeking full rent payment up until 12-August. The landlord's representative submitted a rental ledger to support their claim (LL#3).

May-21	\$455.00	\$480.00	\$84.00
Jun-21	\$455.00		\$539.00
Jul-21	\$455.00		\$994.00
Aug-21	\$455.00	\$480.00	\$969.00
Sep-21	\$455.00	\$400.00	\$1,024.00
Oct-21	\$336.00		\$1,360.00
Nov-21	\$671.00		\$2,031.00
Dec-21	\$361.00	\$140.00	\$2,252.00
Jan-22	\$366.00		\$2,618.00
Feb-22	\$236.00	\$200.00	\$2,654.00
Mar-22	\$671.00	\$100.00	\$3,225.00
Apr-22	\$671.00	\$150.00	\$3,746.00
May-22	\$485.00	\$200.00	\$4,031.00
Jun-22	\$275.00	\$150.00	\$4,156.00
Jul-22	\$389.00	\$500.00	\$4,045.00
Aug-22	\$671.00		\$4,716.00
Sep-22	\$404.00	\$1,100.00	\$4,020.00
Oct-22	\$614.00	\$680.00	\$3,954.00
Nov-22	\$260.00	\$600.00	\$3,614.00
Dec-22	\$393.00		\$4,007.00
Jan-23	\$419.00	\$1,340.00	\$3,086.00
Feb-23	\$333.00	\$100.00	\$3,319.00
Mar-23	\$344.00	\$370.00	\$3,293.00
Apr-23	\$394.00	\$200.00	\$3,487.00
May-23	\$301.00	\$400.00	\$3,388.00
Jun-23	\$337.00	\$300.00	\$3,425.00
Jul-23	\$189.00	\$700.00	\$2,914.00
Aug-23	\$344.00		\$3,258.00
Sep-23	\$311.00		\$3,569.00
Oct-23	\$427.00	\$450.00	\$3,546.00
Nov-23	\$297.00		\$3,843.00
Dec-23	\$340.00		\$4,183.00
Jan-24	\$342.00	\$800.00	\$3,725.00
Feb-24	\$309.00		\$4,034.00
Mar-24	\$671.00		\$4,705.00
Apr-24	\$671.00		\$5,376.00
May-24	\$671.00		\$6,047.00
Jun-24	\$671.00	\$200.00	\$6,518.00
Jul-24	\$671.00		\$7,189.00
Aug-24	\$251.00		\$7,440.85

Analysis

11. I accept the landlord's testimony, as the tenant was not present or represented to provide her account. Based on the evidence, I accept that the rent has been overdue for a considerable period. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid under a rental agreement by a tenant during the use or occupancy of a residential premises. However, I inquired why the landlord is seeking the rent payment up until 12-August, as the landlord's representative had previously stated that the tenant moved out on 1-August. The landlord's representative answered that the tenant had provided the proper standard termination notice with the moving out date of 1-August and confirmed that the tenant likely moved out on that date. However, the tenant never returned the keys and did not inform the landlord of her actual moved out on 1-August. As a result, the landlord visited the unit on the 12-August to conduct an inspection. On that day, they discovered that the tenant had moved out, with the keys left inside the unit. Therefore, the landlord is seeking rent to be paid up until 12-August, the day they confirmed the tenant's departure.
12. Based on the testimony and given that the landlord received a termination notice stating the tenant will move out on the 1-August, I find it was the landlord's responsibility to inspect the unit on that date. The tenant had clearly stated in the termination notice that their intent to vacate on the 1-August and did so on that date. As the landlord chose not to inspect the unit on 1-August but instead on 12-August, I conclude, after considering all factors, that the tenant is responsible for the rent up to 1-August-2024 in the amount of \$7189.00.

Decision

13. The landlord's claim for rent succeeds in the amount of \$7189.00.

Issue # 2: Hearing expenses \$20.00.

Analysis

14. Section 12-1 of the *Residential Tenancies Policy* states that in general, claimable costs may include the filing fee. The landlord paid \$20.00 for the application and is seeking reimbursement. As the landlord's claim has been successful, the tenant shall pay the hearing expenses.

Decision

15. The landlord's claim for hearing expenses succeeds in the amount of \$20.00.

Summary of Decision

16. The tenant shall pay the landlord \$7209.00 as follows:

Rent paid	\$7189.00
Hearing expenses	20.00
Total.....	\$7209.00

October 8, 2024

Date

[REDACTED] Oksana Tkachuk, Adjudicator
Residential Tenancies Office