

Residential Tenancies Tribunal

Application 2024-0954-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 9:15 AM on 6 November 2024 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, attended the hearing. [REDACTED], hereinafter referred to as “the landlord’s witness”, attended the hearing.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants”, did not attend.

Preliminary Matters

4. The tenants were not present or represented at the hearing. Attempts were made to contact both tenants by telephone prior to the hearing without success. 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 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 he has been properly served. The landlord submitted an affidavit with the application indicating the tenants were served by registered mail ([REDACTED]) with the notice of hearing on 17 October 2024 at approximately 11:54 AM (L#1). In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.
5. The details of the claim were presented as a written fixed term rental agreement (L#2) which commenced on 1 September 2021 which has evolved into a month-to-month agreement. Rent was set at \$950.00, due on the first of each month. After occupancy, the tenants requested to pay rent on a bi-weekly schedule which was supported by the landlord. There was a security deposit of \$450.00 collected on 21 August 2021, still in the possession of the landlord. The tenants vacated the rental premises in October 2024.

6. The landlord amended the application to exclude the claim for vacant possession as the tenants had already vacated the premises at the time of hearing.
- 7-. As the tenancy has ended, the disposition of the security deposit will be dealt with in this decision.

Issues before the Tribunal

8. The landlord is seeking the following:
 - An Order for compensation for rental arrears in the amount \$5,700.00
 - An Order for compensation for hearing expenses in the amount \$20.00

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*. Also relevant and considered in this case is S. 14 of the *Residential Tenancies Act, 2018*; and Residential Tenancies Policy 12-01: Costs.

Issue 1: Rental Arrears

10. The landlord is claiming \$5700.00 of rental arrears for, June, July, August, September and October 2024. The landlord's witness testified the tenants were last at a zero balance in April 2024 and the tenants paid rent for May 2024 in full by 19 July 2024, but did not pay any rent for June, July, August, September and October 2024. Along with his application, the landlord supplied a rental ledger (L#3).
11. The landlord testified on 2 October 2024, he issued the tenants a termination notice under Section 19 of the Act by placing it on the door of the rental premises with a request for both to vacate by 13 October 2024 (L#4).
12. The landlord stated he was unsure the exact date the tenants vacated the rental premises and indicated they vacated the rental premises shortly after receiving the Section 19 notice.

Analysis

13. Non-payment of rent is a violation of the rental agreement. I accept the testimony of both the landlord and the landlords witness that rent is owing for the months of June, July, August, September, and October 2024. Note: the landlord is claiming a total of \$5,700.00 in rental arrears, which would equate to six-months rent at \$950.00 per month. However, I note that the rental ledger and testimony refer to rental arrears for a five-month period (inclusive of October 2024). I accept this discrepancy as a mathematical error in the initial application and rely on the evidence obtained through testimony and the rent ledger submitted.
14. The rental ledger (L#3) supplied by the landlord indicates that rent had been paid in bi-weekly installments for the months of January, February, March, April 2024. The ledger

also demonstrates that two installments of \$475.00 each were paid on July 5, 2024 and July 19, 2024, which the landlords witness testified was considered as payment of rent owing for the month of May 2024. The landlord and the landlord's witness both testified that no other rental payments were received from the tenants.

15. The landlord and landlord's witness testified rental arrears were being sought for June, July, August, September and October 2024. The rental ledger indicates by 30 September 2024, the tenants owed \$3800.00.
16. The landlord testified he served the tenants on 2 October 2024 a termination notice under Section 19 of the *Act*, with a request to vacate by 13 October 2024. He further stated he was unsure when the tenants vacated but it was after they had been personally served the termination notice. As the landlord terminated the rental agreement on 13 October 2024 as stated on L#4, rent for October 2024 can only be calculated up to and including the date of the requested date to vacate the rental premises. That calculation is: $\$950.00 \times 12 \text{ months} = \$11400.00 \div 366 \text{ days} = \$31.15 \text{ per day} \times 13 \text{ days} = \404.95 . Rent owing for October 2024 is \$404.94.

Decision

17. The landlord's claim for rental arrears succeeds in the amount of \$4204.94.

Issue 2: Security Deposit

18. The landlord testified the tenants paid a security deposit of \$450.00 on 21 August 2021 prior to tenancy and he was still in possession of this deposit. As the landlord's claim for compensation has succeeded, the security deposit, plus applicable interest at the rate prescribed by the *Security Deposit Interest Calculator* shall be applied against monies owed ($\$450.00 + \3.53) and reveals the landlord shall retain \$453.53.

Decision

19. The landlord shall retain the security deposit of \$453.53 to be applied to monies owed.

Issue 3: Hearing Expenses

20. The landlord claims \$20.00 for hearing expenses. Along with his application, the landlord supplied a hearing receipt (L#4).

Decision

21. As the landlord's claim succeeds, the tenants shall be responsible for the \$20.00 hearing expenses.

Summary of Decision

22. The landlord is entitled to a payment of **\$3771.41** as determined as follows:

- Rental Arrears \$4204.94
- Less Security Deposit plus interest **\$453.53**
- Hearing Expenses \$20.00
- Total **\$3771.41**

27 December 2024

Date



Michael Reddy, Adjudicator
Residential Tenancies Office