

## **Residential Tenancies Tribunal**

Application 2024-0982-NL

Pamela Pennell  
Adjudicator

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### **Introduction**

1. Hearing was called at 9:15 a.m. on 13-December-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 him 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 the 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 their application stating that they had served the tenant with the notice of hearing personally at the residential premises on 2-December-2024 (LL#1). 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, I proceeded with the hearing in his absence.
5. There is a written month-to-month rental agreement which commenced on 2-July-2004. Rent is \$263.00 per month due on the first day of each month and a security deposit was never paid.
6. The application was amended to increase *rent paid* from \$1894.85 as per the application to \$2420.85 and to include hearing expenses.

### **Issues before the Tribunal**

7. The landlord is seeking:
  - An Order for vacant possession of the rented premises.

- Rent paid \$2420.85
- 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 the following section of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual*: Section 12: Recovery of costs.

### Issue # 1: Vacant Possession of the Rented Premises

#### Relevant Submission

10. The landlord submitted a copy of a termination notice given on a *Landlord's Notice to Terminate Early – Cause* form under Section 19: Notice where failure to pay rent. The notice is signed and dated for 18-June-2024, with a termination date of 31-July-2024 (LL#2).

#### Landlord's Position

11. The landlord's representative testified that rent has been in arrears dating back to December-2023 and although a payment was made at the end of June, there has been a running balance since late 2023. The landlord is seeking vacant possession due to nonpayment of rent.

### Analysis

12. 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*

- rented from month to month,*
- rented for a fixed term, or*
- 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.*

*(4) In addition to the requirements under section 34, a notice under this section shall*

- be signed by the landlord;*
- state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and*

c. be served in accordance with section 35.

13. The tenant was in rent arrears in excess of the 5 days when the termination notice was served. On the date of termination, 31-July-2024 the tenant was still in arrears. I asked the landlord how the termination notice was served, and she responded that it was sent via pre-paid registered mail (██████████) on 18-June-2024. In accordance with Section 19 of the *Residential Tenancies Act, 2018* as stated above, the termination notice meets the requirements of the Act and is a valid notice.

14. I find that the tenant should have vacated the premises on 31-July-2024.

## Decision

15. The landlord's claim for an *order for vacant possession of the rented premises* succeeds.

## Issue # 2: Rent paid \$2420.85

### Relevant Submission

16. The landlord testified that rent is outstanding in the amount of \$2420.85 dating back to December 2023. See breakdown of partial ledger below:

Rental Ledger 2024-0982-NL			
Date	Action	Amount	Total
May 31, 2024	Balance	\$1,109.85	
June 1, 2024	Rent due	\$263.00	\$1,372.85
June 30, 2024	Payment	-\$530.00	\$842.85
July 1, 2024	Rent due	\$263.00	\$1,105.85
August 1, 2024	Rent due	\$263.00	\$1,368.85
September 1, 2024	Rent due	\$263.00	\$1,631.85
October 1, 2024	Rent due	\$263.00	\$1,894.85
November 1, 2024	Rent due	\$263.00	\$2,157.85
December 1, 2024	Rent due	\$263.00	\$2,420.85

### Landlord's Position

17. The landlord's representative testified that rent is outstanding in the amount of \$2420.85 dating back to December 2023 and they are seeking rent to be paid in full.

## Analysis

18. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid by a tenant(s) during the use or occupancy of a residential premises. I accept the landlord's testimony that rent has been outstanding since late 2023 with only one payment made in 2024. The rental ledger is amended to show a daily rate for December as this tribunal does not consider future rent (see below).

Amended Ledger 2024-0982-NL			
Date	Action	Amount	Total
May 31, 2024	Balance	\$1,109.85	
June 1, 2024	Rent due	\$263.00	\$1,372.85
June 30, 2024	Payment	-\$530.00	\$842.85
July 1, 2024	Rent due	\$263.00	\$1,105.85
August 1, 2024	Rent due	\$263.00	\$1,368.85
September 1, 2024	Rent due	\$263.00	\$1,631.85
October 1, 2024	Rent due	\$263.00	\$1,894.85
November 1, 2024	Rent due	\$263.00	\$2,157.85
December 1-13, 2024	Rent due	\$112.06	\$2,269.91

Daily rate: \$263 x 12 mths = \$3156  

$$\$3156 / 366 \text{ days} = \$8.62 \text{ per day}$$

19. I find that the tenant is responsible for outstanding rent for the period of 1-December-2023 to 13-December-2024 in the amount of \$2269.91.

20. The tenant shall pay a daily rate of \$8.62 until such time as the landlord regains possession of the property.

#### Decision

21. The landlord's claim for *rent paid* succeeds in the amount of \$2269.91.

#### Issue # 3: Hearing Expenses \$20.00

22. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and submitted a copy of the receipt to support the claim (LL#3). In accordance with Section 12-1 of the *Residential Tenancies Policy Manual*, filing fees can be claimable costs. As the landlord's claim for losses has been successful, I find that the tenant is responsible for the hearing expenses.

#### Decision

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

## **Summary of Decision**

24. The tenant shall pay the landlord \$2289.91 as follows:

Rent paid .....	\$2269.91
Hearing expenses .....	20.00
Total .....	\$2289.91

25. The tenant shall pay a daily rate of rent beginning 14-December-2024 of \$8.62, until such time as the landlord regains possession of the property.

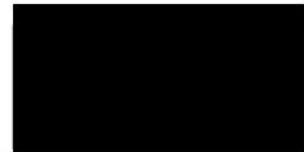
26. The tenant shall vacate the property immediately.

27. 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.

28. The landlord will be awarded an Order of Possession.

December 17, 2024

Date



Pamela Pennell, Adjudicator  
Residential Tenancies Office