

Residential Tenancies Tribunal

Application 2025-0142-NL

Michael Reddy
Adjudicator

Introduction

1. Hearing was held 1:46 PM on 18 March 2025 via teleconference.
2. The applicant, [REDACTED], was represented by [REDACTED] and [REDACTED], and are hereinafter referred to as "the landlords".
3. The respondent, [REDACTED], hereinafter referred to as "the first tenant", attended and was not representing both parties. The second respondent, [REDACTED], hereinafter referred to as "the second tenant", did not attend.

Preliminary Matters

4. The landlords supplied an affidavit of service (L#1) and proof of service, with their application indicating the tenants were served by registered mail [REDACTED] & [REDACTED] on 19 February 2025 at approximately 5:30 PM. The first tenant did not dispute service. The second tenant was not present or represented at 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 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 they have been properly served. 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 his absence.
5. There was a written fixed term rental agreement which commenced on 1 March 2020, and has since converted to a monthly agreement, with rent of \$1100.00, effective 1 March 2025, due on the 1st of each month. There was a security deposit of \$400.00 collected on 28 February 2020 and is still in the possession of the landlord. As of the date of the hearing, the first tenant remains in the rental premises, but testified that the second tenant vacated.
6. The landlords amended their application at the hearing and were seeking for rental arrears to include March 2025, as well as hearing expenses.

Issues before the Tribunal

7. The landlords are seeking the following:

- Rental Arrears of \$2440.00
- Late fees of \$75.00
- Security deposit used against monies owing
- Hearing expenses and registered mail fees of \$60.12

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* (the *Act*).
9. Also considered and referred to in this decision are Sections 15, 34 and 35 of the *Act*, along with Policy 12-001 of the Residential Tenancies Program.

Issue 1: Rental Arrears \$2440.00

Landlords Position

10. The landlords testified that rent is outstanding in the amount of \$2440.00. The landlords stated since November 2024, the tenants started to accrue rental arrears. Along with their application, the landlords supplied a rental ledger (L#2) which is partially reproduce in the analysis below. The landlords stated the rent was last at a zero balance in October 2024. As noted herein, the landlords testified the tenants did not pay rent for March 2025.

Tenant Position

11. The tenant testified she was made aware that [REDACTED] had not been paying rent since November 2024 and did not dispute there were rental arrears owing. She stated that income support last paid \$400.00 rent on her behalf in March 2025 and [REDACTED] was still on the lease, however no longer living at the rental premises. The tenant testified she was not permitted to have contact with [REDACTED], expressed concerns that she was paying her part of the monthly rent and with [REDACTED] still being on the rental agreement.

Analysis

12. Non-payment of rent is a violation of the rental agreement. While the first tenant testified that the second tenant has vacated and she has paid "her portion of the rent" it is noted that the rental agreement lists both tenants for the premises in question. As joint tenants both are responsible for the obligations of the rental agreement.
13. The rental ledger supplied (partially reproduced below) indicates the following:

Date	Transaction	Due	Payment	Balance
29 Nov 2024	Payment		\$400.00	-\$250.00
1 Dec 2024	Rent due	\$950.00	\$0.00	\$700.00
31 Dec 2024	Payment		\$400.00	\$300.00
1 Jan 2025	Rent due	\$950.00	\$0.00	\$1250.00

15 Jan 2025	Payment		\$60.00	\$1190.00
31 Jan 2025	Payment		\$400.00	\$790.00
1 Feb 2025	Rent due	\$950.00		\$1740.00
1 – 18 Mar 2025	Rent due	\$650.88		\$2,390.88
11 Mar 2025	Payment		\$400.00	\$1,990.88

14. As indicated herein, the landlords testified the tenants have not paid rent for March 2025. The updated rental ledger which includes March 2025 (L#3) indicates \$400.00 was paid on 11 March 2025.
15. As this tribunal does not include future rent, rent for March can only be calculated up to and including the day of the hearing (18 March 2025). That calculation is: \$1100.00 X12 months = \$13,200.00 ÷ 365 days = \$36.16 per day X 18 days = \$650.88.
16. Taking into account the balance of rental arrears from February 2025, rent owed for March 1-18, 2025 and the partial payment on 11 March 2025, the rental arrears owing totals \$1990.88.

Decision

17. The landlords claim for rental arrears succeeds in the amount of \$1,990.88.
18. The tenants are responsible for a daily rent in the amount of \$36.16 beginning 19 March 2025.

Issue 2: Late Fees of \$75.00

Landlord Position

19. The landlords claim \$75.00 late fees and testified the tenants have held rental arrears since November 2024. Section 15 of the *Residential Tenancies Act*, 2018 offers clear direction regarding fees for failure to pay rent. As noted in section 15(1), “Where a tenant does not pay rent for a rental period within the time stated in the rental agreement, the landlord may charge the tenant a late payment fee in an amount set by the minister”.

Analysis

20. The minister has prescribed the following:

Where a tenant has not paid the rent for a rental period within the time specified in the Rental Agreement, the landlord may assess a late payment fee not to exceed:

(a) \$5.00 for the first day the rent is in arrears, and

(b) \$2.00 for each additional day the rent remains in arrears in any consecutive number of rental payment periods to a maximum of \$75.00.

Decision

21. The landlords claim for late fees succeeds in the amount of \$75.00.

Issue 3: Security Deposit

Landlord Position

22. The landlords testified the tenants paid a security deposit prior to taking occupancy of the rental premises in February 2020 and supplied a receipt (L#4) of this transaction. The landlords are still in possession of this deposit.

Analysis

23. In accordance with *Residential Tenancies Policy 10-01*, if a landlord has collected a security deposit from a tenant, and if at any point during the tenancy, or after it has ended, the landlord believes that they are entitled to retain some or all of that deposit as compensation for a liability of the tenant, or as compensation for the tenant's failure to fulfil their obligations under the rental agreement, the landlord may either: 1./ Enter into a written agreement with the tenant on the disposition of the deposit, or 2./ File an Application for Dispute Resolution with this Division, seeking compensation for financial damages; and to retain the deposit to offset the financial damages.
24. As the landlords 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 (\$400.00 + \$5.42) and reveals the landlords shall retain \$405.42.

Decision

25. The landlords shall retain the security deposit of \$405.42

Issue 4: Hearing Expenses

Landlord Position

26. The landlords offered evidence of the application fee (L#5) and a receipt for payment of registered mail (L#6) and is seeking compensation.

Analysis

27. In accordance with Residential Tenancies Program Policy 12-001, claimable costs may include filing fees and costs associated with serving the other party with the application such as registered mail. As the application succeeds, the landlord claim for hearing expenses succeeds.

Decision

28. The landlords claim for hearing expense succeeds in the amount of \$60.12

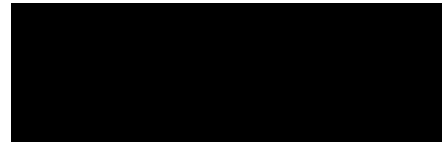
Summary of Decision

29. The landlords are entitled to a payment of \$1720.58, determined as follows:

a) Rental Arrears.....	\$1990.88
b) Late Fees.....	\$75.00
c) Less Security Deposit plus interest.....	\$405.42
d) Hearing Expenses.....	\$60.12
e) Total.....	<u>\$1720.58</u>

30. The tenants are responsible for a daily rent in the amount of \$36.16 beginning 19 March 2025.

30 June 2025
Date



Michael Reddy, Adjudicator
Residential Tenancies Office