

Residential Tenancies Tribunal

Application 2025-0365-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:57 p.m. on 28-May-2025.
2. The applicant, [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 the 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 her application stating that she had served the tenant with the notice of hearing personally at the residential premises on 5-May-2025 (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 1-March-2021. Rent is \$750.00 per month, due on the first day of each month. A security deposit of \$375.00 was paid on 1-March-2021 and is in the landlord’s possession.
6. The landlord amended the application to increase *rent paid* from \$2250.00 to \$3000.00 and to seek hearing expenses. The disposition of the security deposit shall be dealt with in this decision.

Issues before the Tribunal

7. The landlord is seeking:
 - An order for vacant possession of the rented premises
 - Rent paid \$3000.00
 - Late fees \$75.00
 - Hearing expenses \$20.00
 - Security deposit applied against monies owed \$375.00

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 are the following sections of the *Residential Tenancies Act, 2018*: Section 14: Security deposit, Section 15: Late fees and Section 19: Notice where failure to pay rent. Also, relevant and considered is the following section of the *Residential Tenancies Policy Manual*: Section 12-1: Recovery of costs.

Issue # 1: Vacant Possession of the Rented Premises

Relevant Submission

10. The landlord submitted a copy of a termination notice that was given on a *Landlord's Notice to Terminate Early – Cause* form (LL#2). The notice was issued to the tenant on 7-April-2025 under Section 19: Notice where failure to pay rent to vacate on 18-April-2025.

Landlord's Position

11. The landlord testified that rent was in arrears when she gave the termination notice on the 7-April-2025 and was still in arrears on the termination date of 18-April-2025. 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

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

- a. *be signed by the landlord;*
- b. *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, 18-April the tenant was still in arrears. I asked the landlord how the termination notice was served, and she responded that it was given to the tenant personally at the residential premises on the 7-April. 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 18-April-2025.

Decision

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

Issue # 2: Rent paid \$3000.00

Relevant Submission

16. The landlord testified that a previous hearing awarded her payment of rent up to the end of January 2025 and she testified that rent is now outstanding in the amount of \$3000.00 for the period of February – May 2025. The landlord submitted a rental ledger to support the claim (LL#3). See breakdown of rental ledger below:

| Rental Ledger 2025-0365-NL | | | |
|----------------------------|----------|----------|------------|
| Date | Action | Amount | Total |
| February 1, 2025 | Rent due | \$750.00 | \$750.00 |
| March 1, 2025 | Rent due | \$750.00 | \$1,500.00 |
| April 1, 2025 | Rent due | \$750.00 | \$2,250.00 |
| May 1, 2025 | Rent due | \$750.00 | \$3,000.00 |

Landlord's Position

17. The landlord testified that the tenant has not paid rent since the previous hearing and rent is now outstanding in the amount of \$3000.00 since February 2025. The landlord stated that she is 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 and rental ledger and as such, I find that the tenant is responsible for outstanding rent dating back to 1-February-2025. The rent ledger has been amended as this tribunal does not consider future rent. See copy of amended rental ledger below:

| Amended Rental Ledger 2025-0365-NL | | | |
|------------------------------------|--------------------|----------|------------|
| Date | Action | Amount | Total |
| February 1, 2025 | Rent due | \$750.00 | \$750.00 |
| March 1, 2025 | Rent due | \$750.00 | \$1,500.00 |
| April 1, 2025 | Rent due | \$750.00 | \$2,250.00 |
| May 1-28, 2025 | Rent due (28 days) | \$690.48 | \$2,940.48 |

Daily rate: \$750 x 12mts = \$9000
\$9000 / 365 days = \$24.66 per day

19. I find that the tenant is responsible for outstanding rent for the period of 1-February-2025 to 28-May-2025 in the amount of \$2940.48.

20. I find that the tenant shall pay a daily rate of rent beginning 29-May-2025 in the amount of \$24.66, 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 \$2940.48.

Issue # 3: Late fees \$75.00

22. Section 15 of the *Residential Tenancies Act, 2018* states:

Fee for failure to pay rent

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.*

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

23. *Residential Tenancies Policy 12-1*; Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF states:

Late payment fee:

A tenant is responsible to pay the landlord the full rent on the day the rent is due. If the rent is not paid on time, the landlord may charge the tenant a late payment fee of \$5.00 for the first day the rent is in arrears and \$2.00 for each additional day that the rent remains unpaid in any consecutive number of rental periods to a maximum of \$75.00.

24. In accordance with Section 15 of the *Act* and Section 12-1 of the *Policy* as stated above, late fees can be charged to a maximum of \$75.00 in any consecutive number of rental periods where rent is in arrears. The rental ledger shows that rent was in arrears from 1-February up to current date. I find that the tenant is responsible for the maximum late fee charges of \$75.00.

Decision

25. The landlord's claim for *late fees paid* succeeds in the amount of \$75.00.

Issue # 4: Hearing Expenses \$20.00

26. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and submitted a copy of the receipt to support the claim (LL#4). In accordance with Section 12-1 of the *Residential Tenancies Policy Manuel*, 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

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

Issue # 5: Security deposit applied against monies owed \$375.00

Analysis

28. Section 14 of the *Residential Tenancies Act, 2018* states:

Security deposit

14. (8) A security deposit is not an asset of the landlord but is held by the landlord in trust and may be used, retained or disbursed only as provided in this section.
- (9) Not later than 10 days after the tenant vacates the residential premises, the landlord shall return the security deposit to the tenant unless the landlord has a claim for all or part of the security deposit.
- (10) Where a landlord believes he or she has a claim for all or part of the security deposit,
 - (a) the landlord and tenant may enter into a written agreement on the disposition of the security deposit; or
 - (b) the landlord or the tenant may apply to the director under section 42 to determine the disposition of the security deposit.
- (11) Where a tenant makes an application under paragraph (10)(b), the landlord has 10 days from the date the landlord is served with a copy of the tenant's application to make an application to the director under paragraph (10)(b).

29. The landlord's claim for losses has been successful as per paragraphs 20, 24, and 26 above and as such the security deposit shall be applied against monies owed. Pursuant to the *Residential Tenancies Act, 2018* the landlord must pay interest on a security deposit to a tenant for the entire period that the landlord has had the security deposit. The interest is calculated as simple interest and is not compounded. The annual interest rate for 2021–2023 was 0% and is currently 1% for 2024-2025.

Decision

30. The landlord's claim to have the security deposit applied against monies owed succeeds.

Summary of Decision

31. The tenant shall pay the landlord \$2655.20 as follows:

| | |
|---------------------------------------|-----------|
| Rent paid | \$2940.48 |
| Late fees | 75.00 |
| Hearing expenses | 20.00 |
| Less: hearing expenses & interest ... | 380.28 |

Total..... \$2655.20

32. The tenant shall pay a daily rate of rent beginning 29-May-2025 of \$24.66, until such time as the landlord regains possession of the property.

33. The tenant shall vacate the property immediately.

34. 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.

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

June 5, 2025

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office