

Residential Tenancies Tribunal

Application [REDACTED]

Decision 19-0357-05

Michael Greene
Adjudicator

Introduction

1. The hearing was called at 1:50 pm on 22 May 2019 at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, NL.
2. The applicant, [REDACTED] hereafter referred to as the landlord, participated in the hearing. (*affirmed*)
3. The respondent, [REDACTED] hereafter referred to as the tenant, participated in the hearing. (*affirmed*)
4. The details of the claim were presented as a written monthly rental agreement with rent set at \$850.00 per month and due on the 1st of each month. It was stated that no security deposit was collected on the tenancy. The landlord issued a termination notice dated 02 May 2019 for the intended termination date of 13 May 2019 under Section 19 of the *Residential Tenancies Act, 2018*.
5. In a proceeding under the *Residential Tenancies Act, 2018*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

Preliminary Matters

6. The tenant, [REDACTED] was contacted prior to the hearing at [REDACTED] and participated via teleconference at the hearing.

The affidavit submitted by the landlord shows that the tenant was served with the notice of this hearing on the **10 May 2019** by serving the Application for Dispute Resolution document personally to [REDACTED], who is 16 years of age or older and lives with the tenant.

Issues before the Tribunal

7. The landlord is seeking the following:
 - a) Payment of rent owing **\$1700.00**
 - b) Hearing expenses

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in the *Residential Tenancies Act, 2018 (the Act)*, Section 47(1)
9. Also relevant and considered in this case are Sections 19, 34 and 35 of *the Residential Tenancies Act, 2018*; and Policy 12-1: *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*.

Issue 1: Rent Owing - \$1700.00

Relevant Submissions

Landlord Position

10. The landlord stated that both parties had entered into a written rental agreement, commencing 20 November 2018. The agreed rent was set at \$850.00 per month and due on the 1st day of each month with no security deposit collected on the tenancy. The landlord issued a termination notice (**Exhibit L # 2**) on 02 May 2019 for the intended date of 13 May 2019 (section 19). The landlord testified that as of the date (17 May 2019), the tenant vacated the unit. The landlord stated that rent was outstanding in the amount of \$1700.00 for the period ending 31 May 2019, and stated as of the hearing date 22 May 2019, rent remains outstanding.

Tenant Position

11. The tenant testified that she moved from the unit on or about 15 May 2019 and acknowledged owing arrears for April 2019 and for the period May 1 – 15, 2019.

Analysis

12. I have reviewed the testimony and evidence of the landlord and tenant in this matter. As far as I can see, there is one issue here that needs to be addressed: (i) is the rent that is being claimed by the landlord actually owed by the tenant.
13. With respect to the arrears being claimed, I agree with the landlord and tenant that rent is owed. The determination of the amount of rent owed can only rest with the records submitted or acknowledgement of the respondent in the matter at hand. Rent is required to be paid by the tenant for use and occupation of the rented premises as set out in the rental agreement established when the tenancy began. Rent cannot be withheld without the direction through an order of the Residential Tenancies Division. Based on the evidence and testimony presented, I find that rent for the period ending 30 April 2019 is outstanding in the amount of **\$850.00**. As the landlord has terminated the tenancy, the landlord would not be entitled to any rent beyond the date of termination or the date the tenant vacated the property. In this case it appears that the earliest date is 15 May 2019. As such the tenants are responsible for rent for the period of May 1 – 15, 2019 in the amount of **\$419.25** calculated as $(\$850.00 \times 12 \text{ months} = \$10,200.00 \div 365 \text{ days} = \$27.95 \text{ per day} \times 15 \text{ Days} = \$419.25)$

Decision

14. The landlord's total claim for rent succeeds as follows:

- a) Rent owing (up to 30 April 2019) \$850.00
- b) Rent owing for May 1 – 15, 2019 419.25
- c) **Total arrears owing to Landlord \$1269.25**

Issue 2: Hearing Expenses

Landlord Position

15. The landlord paid a fee in the amount of \$20.00 as an application filing fee and presented a receipt from Service NL (████████) (**Exhibit L # 1**). The landlord is seeking this expense.

Analysis

16. I have reviewed the testimony and evidence of the landlord in this matter. The expenses incurred by the landlord is considered a reasonable expense and are provided for with in Policy 12-1 *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*. As such, I find the tenant is responsible to cover these reasonable expenses.

Decision

17. The tenant shall pay the reasonable expenses of the landlord in the amount of \$20.00.

Summary of Decision

18. The landlord is entitled to the following:

a)	Rent Owing (up to and including 15 May 2019)	\$1269.25
b)	Hearing Expenses	<u>\$20.00</u>
c)	Total owing to Landlord	\$1289.25

9 July 2019

Date

Michael Greene
Residential Tenancies Tribunal