

## Residential Tenancies Tribunal

Application █

Decision 20-0003-02

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 1:15 PM on 17 June 2021 via teleconference.
2. The applicant, █ hereinafter referred to as "the landlord", participated in the hearing. The respondent, █ hereinafter referred to as "the tenant", did not participate.

### Issues before the Tribunal

3. The landlord is seeking the following:
  - a. An order for a payment of rent in the amount of \$1330.00;
  - b. An order for a payment of late fees in the amount of \$533.00; and
  - c. An order for a payment \$20.00 n hearing expenses.

### Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case are sections 15 and 42 of the *Residential Tenancies Act, 2018* and rule 29 of the Rules of the Supreme Court, 1986.

### Preliminary Matters

6. The tenant was not present or represented at the hearing and I was unable to reach him by telephone. 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 the hearing 10 clear days prior to the hearing date and, where a 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 his application stating that he had served the tenant with notice of the hearing, by e-mail, on 25 May 2021, and a copy of that e-mail was submitted with his application. The tenant has had 22 days to provide a response. 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.

7. The landlord's application and the filing fee were received on 28 January 2021, within the 1-year period allowed by section 42.(1) and 42.(2) of the *Residential Tenancies Act, 2018*.

### **Issue 1: Rent - \$1330.00**

#### **Relevant Submissions**

8. The landlord stated that he had entered into a monthly rental agreement with the tenant on 01 May 2019, and a copy of that executed agreement was submitted with his application (█ #1). The agreed rent was set at \$450.00. No security deposit was collected.
9. No termination notice was issued by either the landlord or the tenant, and the landlord stated that he had agreed with the tenant that he could move out on 26 January 2020.
10. With his application, the landlord submitted a copy of his rent records (█ #2) showing the payments he had received from tenant during this tenancy. These records show that the tenant fell into rental arrears immediately after he moved in and he has not had a zero-balance since. According to the landlord's calculations, the rent arrears have accrued to \$1330.00 to the date the tenancy ended.

#### **Analysis**

11. I accept the landlord's claim that the tenant has not paid rent as required and that he has been in rental arrears since he moved into the unit.
12. According to the landlord's records, the tenant paid a total of \$2720.00 during this tenancy, and for the 9 months that he lived at the property, he was charged a total of \$4050.00 in rent. The difference, and the total amount owing, then, comes to \$1330.00 as claimed.

#### **Decision**

13. The landlord's claim for a payment of rent succeeds in the amount of \$1330.00.

## **Issue 2: Late fees - \$533.00**

### **Relevant Submissions**

14. According to the landlord's rent records, he has assessed late fees each and every month the tenant was late paying his rent, in amounts ranging from \$33.00 to \$75.00 each month.
15. The total amount of late fees assessed by the landlord comes to \$533.00.

### **Analysis**

16. Section 15.(1) 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.***

17. The minister has set the following fees:

***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**

18. As the tenant has continuously been in rental arrears since May 2019, the landlord is entitled to an award for the maximum fee of \$75.00 set by the minister.

## **Issue 3: Hearing Expenses**

19. The landlord paid a \$20.00 fee to file this application. As the landlord's claim has been successful, the tenant shall pay this hearing expense.

## **Summary of Decision**

20. The landlord is entitled to the following:

- a) Rent Owing .....\$1330.00
- b) Late Fees .....\$75.00
- c) Hearing Expenses.....\$20.00
- d) Total Owing to Landlord .....\$1425.00

16 November 2021

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Date

