

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0316-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:03 pm on 29 November 2021 via teleconference.
2. The applicant, [REDACTED] hereinafter referred to as "the landlord," attended by teleconference.
3. The respondent, [REDACTED] hereinafter referred to as "tenant1" attended the teleconference along with [REDACTED] hereinafter referred to as "tenant2".

Issues before the Tribunal

4. The landlord is seeking the following:
 - a. An order for a payment of rent in the amount of \$300.00;
 - b. An order for the security deposit in the amount of \$650.00 to be applied against monies owing; and
 - c. An order for vacant possession of the rented premises.

Legislation and Policy

5. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
6. Also relevant and considered in this case are sections 15 and 19 of the *Residential Tenancies Act, 2018*.

Preliminary Matters

7. I determined that the landlord improperly served tenant1 by leaving the hearing information package with a co-worker at her place of employment (LL# 1).

However, both tenant1 and tenant2 testified that they were willing to waive their right to service and I proceeded with the hearing.

8. Tenant1 testified that herself and her tenant2 were "*illegally locked out of the property*" on 23 June 2021. The landlord confirmed that she took possession on that day but denied changing locks. Related to this, tenant1 testified that she and tenant2 have not yet received the return of all of their possession. However, a review of applications filed with this Tribunal, indicates that no application for return of possessions has been received from either tenant1 or tenant2.
9. The landlord testified to confirm that she is seeking compensation for rent in the amount of \$3,025.00 and that an order of vacant possession is no longer required as the tenants have vacated the rental premises because the rental premises is now vacant.

Issue 1: Rent - \$3,035.00

Relevant Submissions

The Landlord's Position

10. The landlord testified that there had been a verbal rental agreement with the tenants and that the monthly rent was due on the 9th of the month and set at \$1,300.00 all inclusive. The tenants occupied the rental premises between 01 June 2020 and 23 June 2021.
11. The landlord testified that she issued a standard termination notice to the tenants on 11 June 2021 under section 19 of the *Residential Tenancies Act, 2018*. Photographic proof of the notice having been posted to the door was provided (LL#3). The landlord acknowledged that she cut the Wi-Fi and the power to the rental premises, first on 28 May 2021 and then again on 20 June 2021. The landlord testified that she reinstated power at the rental premises on 23 June 2021, the day she took possession.
12. The landlord testified that the tenants did not pay rent in April 2021, that they paid rent in the amount of \$300.00 in May 2021 and that they never paid rent for June 2021. The landlord referred to the rent ledger that she submitted (LL#2) and testified that she has claimed full late fees in the amount of \$75.00 and subtracted the security deposit of \$650.00 from the total rent of \$3,035.00 owing.

The Tenants' Position

13. Tenant1 testified that the landlord knew she was looking for work and that tenant2 was having issues. Tenant1 acknowledged that she only paid the landlord \$300.00 for April-May-June 2021 and she also testified to having an agreement with the landlord but the landlord kept sending mixed signals.

14. Tenant1 testified that her water, power and Wi-Fi were cut on 22 May, 30 May, 16-17 June, and 19-21 June 2021, and this lack of utilities made it difficult for them to pack up and vacate the rental premises. Tenant1 testified that they were unable to finish packing on 23 June 2021 as they found themselves locked out of the rental premises. Tenant1 also stated that she spoke with the sheriff's office who allegedly confirmed that the landlord had taken possession of the unit on her own.
15. Regarding the landlord's claim for rent, tenant1 testified that she was not comfortable paying the amount claimed until she was able to see the state of her possessions which are still held by the landlord. Tenant1 later testified that she and tenant2 were allowed back into the property on 27 June 2021 and that this was when they noticed that property of theirs was "*moved, touched, and missing*". Tenant1 testified that herself and tenant2 were only able to take "*what they could carry out at the time*" on 27 June 2021.

Analysis

16. With respect to the arrears being claimed, I accept that the landlord and tenant both agreed that only \$300.00 was paid in rent between April-May-June 2021 and that monthly rent was \$1,300.00 all inclusive. As the landlord took possession of the rental unit on 23 June 2021, I find that she is entitled to rent for the full month of April 2021 (\$1,300.00) and May 2021 (\$1,000.00 due to the partial payment) as well as prorated rent for 1 – 22 June 2021 (\$940.28).

Decision

17. The landlord's claim for a payment of rent succeeds in the amount of \$3,240.28 (e.g., \$1,300.00 + \$1,000.00 + \$940.28).

Issue 2: Security Deposit

18. The landlord and tenant1 agreed that a \$650.00 security deposit was collected. As the landlord's claim for compensation for rent has succeeded in excess of this amount, I find that the full amount of \$650.00 security deposit shall be retained by the landlord.

Summary of Decision

19. The landlord is entitled to the following:
 - A payment of \$2950.28, determined as follows:

- a) Rent Owing\$3,240.28
- b) **LESS: Security Deposit(\$650.00)**
- c) Total.....**\$2,590.28**

17 August 2022

Date

