

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-No.375-05

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 9:45 a.m. on September 28, 2021, via teleconference.
2. The applicant, [REDACTED] represented by [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 claim and notice of the 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 (#01) with his application stating that the building manager had served the tenant with notice of the hearing, on September 10, 2021 by Registered Mail. 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. The landlord amended his Application for dispute resolution (#05), the tenant moved on August 31, 2021, so they are no longer seeking vacant possession.

Issues before the Tribunal

6. The landlord is seeking:
 - Rent paid in the amount of \$1,680.00
 - Late fee of \$75.00
 - Hearing expenses of \$20.00

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
8. Also relevant and considered in this decision is section 35 of the *Residential Tenancies Act, 2018*; service of documents.

Issue 1: Rent paid in the amount of \$1,680.00

Relevant Submissions

9. The landlord stated that he had entered into a written agreement with the tenant with an occupancy date of November 01, 2013 and a termination date of August 31, 2021. The tenant was paying \$775.00 a month rent, this rent has increased over the years and starting January 01, 2021 the amount for rent is \$840.00. The tenant paid a damage deposit of \$575.00 on October 21, 2013, the landlord is still in possession of the damage deposit.
10. The tenant had been arrears in the past, he had achieved a zero balance in March of 2021. On July 2, 2021 he once again went into arrears for the full amount of July's rent; \$840.00.
11. The landlord submitted a rent ledger (■#02) documenting payments made.
12. The tenant has not paid rent for both July and August 2021 rent, totaling \$1680.00

Analysis

13. I accept the landlord's testimony that rent is owed to the landlord. This testimony was corroborated by the submission of the rent ledger (■#02) indicating that a balance of \$1,680.00 was outstanding for rent for July and August 2021.
14. Non-payment of rent is in violation of the rental agreement made between the landlord and tenant.

Decision

15. The tenant owes the landlord \$1,680.00 for rent.

Issue 2: Late Fees \$75.00

Relevant Submissions

16. The landlord submitted a rent ledger (■#02) indicating that the tenant has been in rental arrears starting July 2, 2021 and remained in arrears until the date he gave up possession of the property on August 31, 2021.

Analysis

17. 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.***

18. As the tenant has been arrears since July 2, 2021 the landlord is entitled to a payment of the maximum fee of \$75.00 set by the minister.

Decision

19. The tenant shall pay late fees to the landlord in the amount of \$75.00

Issue 4: Hearing Expense

20. The landlord submitted the receipt for \$20.00 for the cost of the hearing (█████ #03) and pursuant to policy 12.01, is entitled to reimbursement of that cost from the tenant.

Summary of Decision

21. The landlord is entitled to the following:

- Rent totaling..... \$1,680.00
- Late Fees..... 75.00
- Hearing Expenses 20.00

Total..... \$1,775.00

October 6, 2021

Date