

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0581-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:17 AM on 15 March 2022 via teleconference.
2. The applicant, [REDACTED], was represented at the hearing by [REDACTED] [REDACTED], hereinafter referred to as "the landlord". The respondent, [REDACTED] hereinafter referred to as "the tenant", did not participate.

Issues before the Tribunal

3. The landlord is seeking the following:
 - An order for a payment of rent in the amount of \$1200.00,
 - An order for a payment of late fees in the amount of \$75.00.

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 is sections 15 and 19 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 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 sent the application and notice of the hearing to the tenant, by e-mail, on 31 December 2021 and a copy of that e-mail was submitted with her application. The landlord testified that the e-mail address she had used was provided to her by the tenant for communications. 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.

Issue 1: Rent - \$1,200.00

Relevant Submissions

7. The landlord testified that she had entered into a 1-year, fixed-term written rental agreement with the tenant on 01 March 2021. The agreed rent was set at \$800.00 per month and a security deposit in the amount of \$400.00 was collected.
8. The landlord issued the tenant an eviction notice on 26 November 2021 and the tenant vacated on 30 November 2021.
9. The landlord submitted a copy of rent records showing the rent payments received from the tenant since he moved into the unit (L #1). According to these records, the tenant last had a zero balance at the end of September 2021. Since then, the tenant has made only one rent payment of \$400.00, on 06 October 2021. The landlord is seeking an order for the remaining \$400.00 for October 2021 and \$800.00 for November 2021.

Analysis

10. I accept the landlord's claim that the tenant did not pay the full amount of rent in October 2021 and did not pay rent for November 2021, and based on her records, I find that the tenant owes 1,200.00 for the period ending 30 November 2021. As such, her claim succeeds in that amount.

Decision

11. The landlord's claim for a payment of rent succeeds in the amount of \$1,200.00.

Issue 2: Late Fees - \$75.00

Analysis

12. 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.

13. As the tenant has been arrears since 02 October 2021, the landlord is entitled to a payment of the maximum fee of \$75.00 set by the minister.

Decision

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

Issue 3: Security Deposit

15. The landlord stated that a \$400.00 security deposit had been paid in March 2021. As the landlord's claim for rent and late fees has been successful, she shall retain that security deposit as outlined in this decision and attached order.

Summary of Decision

16. The landlord is entitled to the following to a payment of \$875.00, determined as follows:

- a) Rent Owing\$1,200.00
- b) Late Fees\$75.00
- c) Less Security Deposit.....(\$400.00)
- d) Total\$875.00

07 October 2022

Date

