

Residential Tenancies Tribunal

Application 2022-No.68-NL

Decision 22-0068-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 11:15 a.m. on 02-May-2022.
2. The applicants, [REDACTED] and [REDACTED], were represented by [REDACTED], hereinafter referred to as “the landlord” and she 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; I was able to reach her by telephone at the start of the hearing, she however, chose to end the call and not attend 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 she has been properly served. The landlord submitted an affidavit (LL#01) with their application stating that she had served the tenant with notice of the hearing, by prepaid registered mail that was sent on 09-February-2022. The landlord provided a tracking number and it shows that the mail was returned to the sender. It is our policy however, to consider registered mail delivered after 5 days. 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 her absence.
5. The landlord amended their application for rent owed from \$1,700.00, they are seeking rent until 17-February-2022 for a total of \$2,200.00 and inconvenience until the end of February \$350.00, for rent lost.

Issues before the Tribunal

6. The landlord is seeking:
 - Rent \$2,200.00
 - Loss of Rent / inconvenience \$350.00
 - Hearing Expenses \$33.44

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 are the following sections of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent and Section 32: Abandoned personal property.

Issue 1: Rent \$2,200.00

Relevant Submissions

9. The landlord said she had a verbal rental agreement with the tenant. She said that her and her husband had purchased the house in September 2021 and that the tenant was already living there. At the time of the purchase the tenant was paying \$620.00 a month for her rent, the tenant was told that beginning December 01, 2021 the rent would be increasing to \$850.00 a month. The landlord said that the rental period was from the 1st day of the month until the last. She said rent is due in full on the first, however, she did offer the tenant the opportunity to pay \$425.00 on the 1st and the 16th of each month.
10. The landlord said that the tenant paid a security deposit of \$300.00 to the previous owner and that deposit was transferred to them when they purchase the house. She said that they had a previous hearing with this tenant (2021-No.81-W). At that time, they were awarded vacant possession, as well as, hearing expenses of \$33.44. The hearing expenses are retained from the security deposit, there is now \$266.64 remaining of the tenant's original security deposit.
11. The landlord said that the tenant did not pay rent for December 2021 or January 2022. She said that they enforced the vacant possession order and the RCMP changed the locks on the apartment on 17-February-2022. She said that they regained possession of the apartment at that time. She is seeking rent for the two months and the 17 days of February. She provided a rent ledger (LL#02).

Analysis

12. Non-payment of rent is a violation of the rent agreement between these parties. The tenant is responsible to pay rent for the use of the apartment.
13. The landlord is seeking full rent for December and January, the partial rent amount for February 1- 17 will be calculated at a daily rate. $\$850.00 \times 12 \text{ months} = \$10,200.00$. $\$10,200.00 \text{ divided by } 365 \text{ days} = \27.95 a day . $\$27.95 \text{ a day} \times 17 \text{ days} = \475.15 .

14. The tenant shall pay \$2,179.15 rent as follows:

- December \$850.00
- January 850.00
- February 1- 17 475.15
 - Total \$2,179.15

Decision

15. The landlords' claim for rent succeeds in the amount of \$2,179.15.

Issue 2: Loss of Rent / Inconvenience \$350.00

Relevant Submissions

16. The landlord stated that they enforced a vacant possession order and reclaimed the apartment from the tenant, paragraph 11. At the time that this was done, all of the tenant's belongings were in the apartment. She said that she contacted the tenant and offered for her to come and collect her stuff. The tenant did not do this.
17. The landlord provided a receipt to show that the tenant's belongings were stored in storage (LL#05). She said that her husband redeployed staff to assist in the move. She said to get everything packed and moved by truck it took until the end of February.
18. The landlord said she had a tenant ready to move in, however, the tenant could not take occupancy until 01-March-2022 as they were still trying to move the tenant's belongings into storage.
19. The landlord said that they lost rent and were inconvenienced financially by the actions of the tenant. They are requesting \$350.00 rent for the remainder of the month.

Analysis

20. I accept that the landlords had arrangements with a new tenant and that they had to wait for the tenant's belongings to be removed. I also accept that the removal of those items required time to pack and time to have everything safely stored in accordance with the Act.

Abandoned personal property

32. (1) Where a tenant abandons or vacates a residential premises and leaves personal property on the residential premises, the landlord shall either

- (a) remove the personal property and immediately place it in safe storage; or*
- (b) store the personal property on the residential premises in a safe manner.*

(2) The personal property stored under subsection (1) shall be stored for not less than 30 days unless the tenant takes possession of the personal property before the 30 days have elapsed.

21. I find that the landlord was inconvenienced financially and incurred the loss of 11 days rent from 18-28 February. The tenant shall pay for the loss of rent, at the daily rate of \$27.95 (paragraph 13) incurred while the landlords were safely moving and storing her belongings.
22. The tenant shall pay the landlord 11 days x \$27.95 = \$307.45.

Decision

23. The landlord's claim for inconvenience succeeds in the amount of \$307.45.

Issue 3: Hearing expenses reimbursed \$33.44

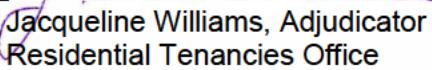
24. The landlord submitted receipts for \$20.00 for the cost of the application fee (LL#04) and \$13.44 for the cost of registered mail (LL#03) pursuant to policy 12.01, they are entitled to reimbursement of those costs from the tenant, totaling \$33.44.

Summary of Decision

25. The tenant shall pay the landlords \$2,520.04, as follows:
 - Rent..... \$2,179.15
 - Inconvenience..... \$307.45
 - Hearing Expenses..... \$33.44
 - Total..... \$2,520.04

May 04, 2022

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office