

Residential Tenancies Tribunal

Application 2022 No. 120NL

Decision 22-0120-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 2:00 PM on 16 May 2022 via teleconference.
2. The applicant, [REDACTED], was represented at the hearing by [REDACTED] and [REDACTED], hereinafter referred to as "landlord1" and "landlord2", respectively. The respondent, [REDACTED], hereinafter referred to as "the tenant", did not participate.

Issues before the Tribunal

3. The landlord is seeking an order for a payment of \$20,324.33 in compensation for damages.

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 decision is section 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 them by telephone at the commencement 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 they have been properly served. The landlord submitted an affidavit with its application stating that the tenant was served with the application, by e-mail, on 04 May 2022. 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: Was this Application Filed in Time?

7. Landlord2 stated that they had entered into a monthly rental agreement with the tenant on 15 November 2019. The agreed rent was set at \$1150.00 per month and it is acknowledged in the rental agreement that the tenant had paid a security deposit of \$862.50.
8. Landlord2 stated that the tenant moved out of the property on 02 February 2021 and the tenancy was terminated on that date.
9. Section 42 of the *Residential Tenancies Act, 2018* states

Application to director

42. (1) *A landlord or tenant may, within one year after termination of the rental agreement, apply to the director to determine*

(a) a question arising under this Act or the regulations;

(b) whether a provision of a rental agreement has been contravened; or

(c) whether a provision of this Act or the regulations has been contravened.

(2) An application under subsection (1) shall be submitted to the director in the form and with the fee set by the minister.

10. As this tenancy was terminated on 02 February 2021, the landlord had until 02 February 2022 to make application to the director concerning any issue outlined in section 42.(1), above.
11. The application that was filed with this Section was received on 11 February 2022 and the fee for that application was also paid on that date. I informed the landlords at the hearing that as the application was not filed with us prior to 02 February 2022, their claim for compensation for damages could not be heard.

Summary of Decision

12. The landlord's application was not filed within the 1-year time limit set out in section 42.(1) of the *Residential Tenancies Act, 2018*.
13. The landlord's application is dismissed.

18 May 2022

Date



John R. Cook
Residential Tenancies Tribunal