

Residential Tenancies Tribunal

Application 2022-No.179 -NL

Decision 22-0179-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 11:15 a.m. on 26-May-2022.
2. The applicant, [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 (LL#01) with her application stating that she had served the tenant with notice of the hearing, electronically on 08-April-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.
5. The landlord amended her application to remove premises vacated as the tenant has already moved.

Issues before the Tribunal

6. The landlord is seeking:
 - Rent \$1,424.50
 - Late fees \$59.00

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 the following section of the *Residential Tenancies Act, 2018*: Section 15: Fee for failure to pay rent.

Issue 1: Rent \$1,424.50

Relevant Submissions

9. The landlord submitted the written terms of the verbal rental agreement (LL#02) she had with the tenant. The landlord said she had a rental agreement with the tenant's girlfriend and after she moved out, the landlord agreed to rent to the tenant. The tenant took over sole occupancy on 01-July-2021. He pays \$625.00 per month (utilities are not included) and he didn't pay a security deposit. The tenant's rent period is from the first day of the month to the last and his rent is due on the first day of each month.
10. The landlord said she had given the tenant a termination notice (LL#03) for failure to pay rent on 01-March-2022 with a termination date of 12-March-2022. She said that on the 23-March-2022 she went to the house and suspected it was abandoned. She said she placed a notice of abandonment on the door. The tenant did not contact her. When she went back to regain possession of the house, the tenant's father was there. He is not on the lease and told her he didn't know where the tenant was. She told the tenant's father, he would have to leave. She then took back possession of the house.
11. The tenant's belongings were still at the house. She agreed with the tenant to give him, and his parents, access to the house to remove his belongings. She said that on 28-March-2022, they had moved everything out of the house.
12. She said that the house was sold and the new owner took possession on 14-April-2022.
13. The landlord is seeking rent owed. She submitted a rent ledger (LL#04) as follows:

Rent ledger
2022-No.179-NL

Date	Action	Amount	total
1-Jul-21	rent due	625.00	625.00
21-Jul-21	rent paid	-312.00	313.00
1-Aug-21	rent due	625.00	938.00
4-Aug-21	rent paid	-310.00	628.00
18-Aug-21	rent paid	-310.00	318.00
1-Sep-21	rent due	625.00	943.00
1-Sep-21	rent paid	-315.00	628.00
15-Sep-21	rent paid	-310.00	318.00

1-Oct-21	rent due	625.00	943.00
26-Oct-21	rent paid	-315.00	628.00
1-Nov-21	rent due	625.00	1253.00
30-Nov-21	rent paid	-315.00	938.00
1-Dec-21	rent due	625.00	1563.00
18-Dec-21	rent paid	-425.00	1138.00
21-Dec-21	rent paid	-512.50	625.50
24-Dec-21	rent paid	-200.00	425.50
1-Jan-22	rent due	625.00	1050.50
15-Jan-22	rent paid	-625.00	425.50
20-Jan-22	rent due	-315.00	110.50
1-Feb-22	rent due	625.00	735.50
1-Mar-22	daily rate 1-28 March	575.40	1310.90

Daily rate: 625.00 x 12 months = \$7,500.00

\$7,500.00 divided by 365 days = \$20.55

\$20.55 x 28 days = \$575.40

14. The landlord is seeking full reimbursement of rent owed.

Analysis

15. Non-payment of rent is a violation of the rental agreement (LL#02). I accept the landlord's testimony and evidence that the tenant did not pay rent totaling \$1,310.90.
16. The tenant shall pay the landlord the rent owed totaling \$1,310.90

Decision

17. The landlord's claim for rent succeeds in the amount of \$1,310.90.

Issue 2: Late fees \$59.00

Relevant Submissions

18. The landlord has proven, paragraph 15 that the tenant has been in rental arrears as of 02-July-2022 and is seeking \$59.00 late fees.

Analysis

19. 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.

20. As the tenant has been arrears since 02-July-2022, the landlord is entitled to a payment of the maximum fee of \$75.00 set by the minister, however as she is only applying for a late fee payment of \$59.00, that is the amount awarded.

Decision

21. The landlord's claim for late fees succeeds in the amount of \$59.00.


Summary of Decision

22. The tenant shall:

- Pay the landlord \$1,369.90 as follows:
 - Rent \$1,310.90
 - Late fees 59.00
 - Total \$1,369.90

May 27, 2022

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office