

Residential Tenancies Tribunal

Application 2022 No. 346NL

Decision 22-0346-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 AM on 16 June 2022 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord", participated in the hearing. The respondent, [REDACTED], hereinafter referred to as "the tenant", was not attendance.

Issues before the Tribunal

3. The landlord is seeking the following:
 - An order for a payment of \$664.95 in compensation for inconvenience,
 - An order for a payment of rent in the amount of \$1075.00, and
 - 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 section 15 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 her 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. With her application, the landlord submitted an affidavit from a process server stating that tenant had been personally served with the application on 17 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 her absence.

Issue 1: Compensation for Inconvenience - \$664.95

Relevant Submissions

7. The landlord stated that the tenant had moved into the unit with her then-partner, [REDACTED], on 04 June 2017. [REDACTED] moved out the following year, and the landlord and tenant entered into a new rental agreement, on 28 August 2018, in which the tenant was listed as the sole leaseholder. A copy of that executed agreement was submitted with the landlord's application. The agreed rent was set at \$1200.00 per month, payable semi-monthly, and the landlord stated that no security deposit was collected for this new tenancy.
8. On 01 March 2022, the landlord issued the tenant a termination notice, requiring that she vacate on 31 May 2022. On 14 March 2022, the tenant informed the landlord that she was moving out in 1 week, and she vacated the unit on 21 March 2022.
9. The landlord stated that on 02 or 03 March 2022, she put the rental property up for sale, she received an offer on that same day, and the sale was closed on 10 April 2022.
10. The landlord stated that after the tenant moved out, she was required to remove some garbage from the property and take it to the dump, the unit also had to be cleaned, and she was required to carry out some plastering and priming of the walls.
11. Regarding the garbage removal, the landlord stated that there were bags of garbage left under the crawlspace, and buckets of dog feces left in the yard that needed removing. She also stated that the tenant had left behind some boards, a shovel, and a propane tank. She stated that all these items had to be collected and then they were taken to the dump. The landlord stated that it took a "few hours" to carry out that work. No photographs were submitted showing this garbage.
12. The landlord stated that it appeared that the unit had not been cleaned for years. She stated that she had to use 3 cans of Easy-Off on the oven and she claimed that it took her about 7 hours of scrubbing to get it clean. She also claimed that it took about 4 hours to pick up the dog feces in the yard. She stated that the refrigerator had to be cleaned out, there was mold in the cupboard under the sink

and all the kitchen cupboards had to be wiped down. The landlord also claimed that all the window sills and doors throughout the unit were “rotten”. She stated that it took “many hours” to carry out that work.

13. The landlord also complained that the tenant had been hanging things on the walls, which she was not permitted to do, and she also stated that there were some other larger holes in the walls in various places. She testified that she had an agreement with the new owner of the house that she would repair the holes with plaster, and then prime those areas, and the new owner would carry out the painting when they took possession. The landlord stated that she could not “guesstimate” how long it took to carry out that work as her husband had completed it.

Analysis

14. The landlord submitted no photographs with her application showing that there was any garbage left behind by the tenant, so her claim for the costs of removing garbage does not succeed.
15. With respect to the cleaning, the landlord’s photographs show that the oven was not properly cleaned and that there was some dirt in under the kitchen sink, and it appears that the floors need cleaning as well. Based on that evidence, I find that the landlord is entitled to compensation for 6 hours of her personal labour. Policy with this Section is that an applicant may claim up to \$21.70 per hour for her personal labour. As such, the landlord’s claim for cleaning succeeds in the amount of \$130.20.
16. Regarding the plastering and priming, the photographic evidence submitted by the landlord also shows that some trim work had been ripped from the walls, that there are several holes and gouges in places, and it looks as if the tenant had tried to carry out some plastering herself, but had done a poor job. To repair those damaged areas, I find that the landlord is entitled to compensation for an additional 10 hours of her labour: \$217.00.

Decision

17. The landlord’s claim for compensation for damages succeeds in the amount of \$347.20.

Issue 2: Rent - \$1075.00

Relevant Submissions

18. The landlord stated that the tenant’s rent was paid and up-to-date for the period ending 28 February 2022. Since then, the landlord stated that the tenant has paid a total of 200.00, in 5 separate installments: \$100.00 on 30 March, \$25.00 on 21 April, \$25.00 on 11 May, \$25.00 on 26 May and \$25.00 on 08 June 2022.

19. The landlord calculates that the tenant owes her a total of \$1000.00 for the month of March 2022.

Analysis

20. I accept the landlord's claim that the tenant had not paid her rent, as required. I accept her testimony that the tenant has only paid her a total of \$200.00 towards the rent for March 2022, leaving a balance of \$1000.00 owing for that month. As such, the landlord's claim succeeds in that amount.

Decision

21. The landlord's claim for a payment of rent succeeds in the amount of \$1000.00.

Issue 3: Late Fees - \$75.00

22. The landlord has assessed late fees in the amount of \$75.00.

Analysis

23. 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.

24. 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.

25. As the tenant has been arrears since 02 March 2022 the landlord is entitled to a payment of the maximum fee of \$75.00 set by the minister.

Decision

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

Issue 4: Hearing Expenses

27. The landlord paid a fee of \$20.00 for the costs of filing this application, and a receipt of that payment is on file. As the landlord's claim has been successful, the tenant shall pay that hearing expense. The landlord also stated that she had also paid her process server to serve the tenant, but no receipt was submitted with her application, so her claim for that expense does not succeed.

Summary of Decision

28. The landlord is entitled to a payment of \$1442.20, determined as follows:

| | | |
|----|--------------------------------------|------------------|
| a) | Compensation for Inconvenience | \$347.20 |
| b) | Rent Owing | \$1000.00 |
| c) | Late Fees..... | \$75.00 |
| d) | Hearing Expenses | \$20.00 |
| e) | Total Owing to Landlord..... | <u>\$1442.20</u> |

07 December 2022

Date

John R. Cook
Residential Tenancies Tribunal