

Residential Tenancies Tribunal

Application 2022-No.408 -NL

Decision 22-408-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 11:15 a.m. on 06-July-2022.
2. The applicant, [REDACTED], represented by [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 their application stating that they had served the tenant with notice of the hearing, electronically on 25-May-2022 to the tenant's email. The landlord said that the tenant provided him the email address when he applied for tenancy. 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.

Issues before the Tribunal

5. The landlord is seeking:
 - Rent \$410
 - Late fees \$75.00
 - Hearing Expenses \$20.00

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
7. Also relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 14: Security deposit, Section 15: Fee for failure to pay rent, and Section 19: Notice where failure to pay rent.

Issue 1: Rent \$410.00

Relevant Submissions

8. The landlord stated that they have a written monthly rental agreement with the tenant. He moved in on 01-May-2021 and he moved out around 30-April-2022. She said that he pays \$865.00 a month rent and received a promotional discount of \$75.00. The rental period is from the first day of each month until the last and his rent is due in full on the first day of the month. The tenant paid a security deposit of \$380.00 on 05-May-2021, the landlord has applied this security deposit against the monies owed.
9. The landlord had a previous hearing for this tenant and received an Order of Possession. She said that the Sheriffs came on three separate occasions however there was no one home. The landlord said that the third time they came, they changed out the locks. The tenant's belongings were still in the apartment.
10. The landlord said that they didn't know he was moved out, their only way they now have to contact the tenant is through email. She said that they had originally charged him for May's rent, but it seems he moved in April so they credited the May rent back.
11. The landlord submitted a rent ledger (LL#02) and said that they applied the tenant's security deposit against rent owed. See below:

Date	Action	Amount	total
1-Mar-22	rent due	865.00	865.00
1-Mar-22	Promotional credit	-75.00	790.00
10-Jun-22	security deposit applied	-380.00	410.00

12. The landlord is seeking full reimbursement of the rent totaling \$410.00.

Analysis

13. Non-payment of rent is a violation of the rental agreement. I accept the landlord's testimony and evidence that the tenant did not pay rent totaling \$410.00.
14. The tenant shall pay the landlord the rent owed totaling \$410.00.

Decision

15. The landlord's claim for rent succeeds in the amount of \$410.00.

Issue 2: Late fees \$75.00

Relevant Submissions

16. The landlord has proven, paragraph 15, that the tenant has been in rental arrears as of 02-April-2022 and is seeking the maximum allowed late fees.

Analysis

17. 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.*

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

Decision

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

Issue 3: Hearing expenses reimbursed \$20.00

20. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#03) and pursuant to policy 12.01, is entitled to reimbursement of that cost from the tenant.

Summary of Decision

21. The tenant shall:

- Pay the landlord \$505.00 as follows:
 - Rent \$410.00
 - Late fees 75.00
 - Hearing expenses 20.00
 - Total \$505.00

July 19, 2022
Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office