

Residential Tenancies Tribunal

Application 2022 No. 715 [REDACTED]

Decision 22-0715-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 AM on 28 September 2022 via teleconference.
2. The applicant, [REDACTED] was represented at the hearing by [REDACTED], hereinafter referred to as "the landlord". The respondents, [REDACTED] and [REDACTED], hereinafter referred to as "the tenants", did not participate.

Issues before the Tribunal

3. The landlord is seeking the following:
 - An order for vacant possession of the rented premises; and
 - An order for a payment of rent in the amount of \$2200.00.

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 19 of the *Residential Tenancies Act, 2018* and rule 29 of *The Rules of the Supreme Court, 1986*.

Preliminary Matters

6. The tenants were not present or represented at the hearing and I was unable to reach them 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 respondents fail to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondents' absence so long as they have been properly served. The landlord submitted an affidavit with his application stating that the tenants were served with the application, by e-mail, on 23 August 2022, and a copy of that e-mail was also submitted. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.

7. The landlord amended his application at the hearing and stated that he was no longer seeking an order for possession of the rented premises as the tenant vacated on 30 August 2022.

Issue 1: Rent - \$2200.00

Relevant Submissions

8. The landlord stated that he had entered into a 1-year, fixed-term lease with the tenants on 01 June 2019, and a copy of the executed lease was submitted with his application (█ #1). The agreed rent was set at \$1100.00 per month and it is acknowledged in the lease that the tenants had paid a security deposit of \$825.00.
9. On 17 August 2022 the landlord issued the tenants with a termination notice, and a copy of that notice was submitted with his application (█ #2). That notice was issued under section 19 of the *Residential Tenancies Act, 2018* (notice where failure to pay rent) and it had an effective termination date of 28 August 2022. The landlord stated that the tenants vacated on 30 August 2022.
10. The landlord submitted rent records with his application showing the payments he had received from the tenants since October 2021 (█ #3). The landlord stated that the tenants' rent was paid and up-to-date for the period ending 30 June 2022, but he testified that he has received no rent for the months of July or August 2022. The landlord is seeking an order for a payment of rent in the amount of \$2200.00 for those 2 months.

Analysis

11. I accept the landlord's claim that the tenants have not paid their rent as required, and the landlord's records show that no rent was paid for either July or August 2022—a total of \$2200.00. As such, the landlord's claim succeeds in that amount.

Decision

12. The landlord's claim for a payment of rent succeeds in the amount of \$2200.00.

Issue 2: Security Deposit

13. The landlord stated that the tenant had paid a security deposit of \$825.00 on 23 May 2019, and receipt of that deposit is acknowledged in the submitted rental agreement. As the landlord's claim has been successful, he shall retain that deposit as outlined in this decision and attached order.

Summary of Decision

14. The landlord is entitled to a payment of \$1300.00, determined as follows:

- a) Rent Owing\$2200.00
- b) LESS: Security Deposit.....(\$825.00)
- c) Total.....\$1375.00

01 November 2022

Date

John R. Cook
Residential Tenancies Tribunal