

Residential Tenancies Tribunal

Applications: 2022 No. 0917 NL

Decision 22-0917-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 9:04 AM on 06 December 2022 via teleconference.
2. The applicant, [REDACTED] (also known as [REDACTED]), hereinafter referred to as "the landlord", participated in the hearing. The respondent, [REDACTED] (also known as [REDACTED] hereinafter referred to as "the tenant", participated in the hearing.
3. An affidavit of service was provided by the landlord confirming that the tenant was served electronically on 06 November 2022 and proof of service was provided (L#1). The tenant confirmed service.
4. The details of the claim were presented as an intended month-to-month rental of a room within the rental premises located at [REDACTED]. The tenant took possession of the room some time after the first week of September and vacated on 01 October 2022. Monthly rent was to be \$525.00 and a security deposit in the amount of \$400.00 was to be collected. However, the only monies received by the landlord was \$400.00 prorated rent for the month of September 2022.
5. In a proceeding under the *Residential Tenancies Act*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. The standard of proof, in these proceedings, is referred to as the balance of probabilities which means the applicants have to establish that their account of events is more likely than not to have happened.

Issues before the Tribunal

6. The landlord is seeking the following:
 - Validity of Termination notice determined; and
 - Payment of Rent in the amount of \$525.00.

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* (the *Act*).
8. Also relevant and considered in this case are sections 7 and 18 of the *Act*.

Issue 1: Validity of Termination Notice

Landlord's Position

9. The landlord provided a copy of all text messages sent between the tenant and himself (L#2) and testified that he originally held the room for the tenant because he was referred by an existing tenant. The landlord testified that he is seeking payment of rent in the amount of \$525.00 for October in lieu of notice of termination. The landlord testified that the tenant texted on 29 September 2022 to say he was leaving, and then he left soon after.

Tenant's Position

10. The tenant testified that he had a friend check out the room prior to him renting, but that the friend did not spend the night in the room to fully experience it. The tenant stated that there were a "number of things off" with the room and testified that he never communicated these concerns to the landlord, while residing in the rental premises. He also testified that he later offered to the landlord that he would move back into the rental premises and pay off arrears so long as the landlord first fixed things up. The tenant testified that he had concerns with rodents in the rental premises, but did not provide any corroborating evidence.

Analysis

11. The landlord is seeking validity of notice received by text message on 29 September 2022 because his tenant moved out a few days later. The tenant agreed with the timelines provided and that he did not provide the one months notice in accordance with 18(1)(b) of the *Act* which reads as follows:

Notice of termination of rental agreement

18. (1) *A tenant shall give the landlord notice that the rental agreement is terminated and the tenant intends to vacate the residential premises*

(b) not less than one month before the end of a rental period where the residential premises is rented from month to month; and

12. Consequently, I find that the tenant did not provide valid notice of termination to the landlord because he did not provide the required 1 month notice. Regarding the tenant's reported concerns with the rental premises and the landlord's alleged failure to provide a copy of the written lease agreement, I was unable to verify the tenant's concerns because he did not provide any substantiating evidence.

Decision

13. The tenant did not provide the landlord with a valid notice of termination.

Issue 2: Payment of Rent (\$525.00)

Landlord's Position

14. The landlord testified that he is seeking payment of rent in the amount of \$525.00 for October in lieu of notice of termination and that he was able to secure a new tenant for the room rental from 01 November 2022 onward. The landlord testified that he provided a copy of the written rental agreement for signature to the tenant and he also referred to a screenshot from his document management system confirming the day the document was sent (see page 3 in L#2).

Tenant's Position

15. The tenant testified that he is an exchange student from Ghana and that he had to vacate because his funds were delayed. He also testified that he was never provided with a copy of the written rental agreement from the landlord and so he did not understand his rights or responsibilities under the Act.

Analysis

16. The landlord is seeking payment of rent for October 2022. As noted in paragraph 13, I found that the tenant did not provide valid notice of termination to the tenant. Consequently, I find that the landlord is entitled to payment of rent in the full amount claimed of \$525.00 because he could have otherwise expected for rent to be paid by the tenant who entered into a month-to-month tenancy earlier in that month of September 2022.

Decision

17. The tenant shall pay to the landlord \$525.00 for arrears in rent.

Issue 3: Hearing Expenses

Relevant submissions

18. The landlord claimed \$20.00 for the expense of applying for the hearing. As his claim has been successful, the tenant shall pay this hearing expense.

Summary Decision

19. The tenant shall pay to the landlord an amount of \$545.00 , determined as follows:

a) Rent	\$525.00
b) Hearing Expenses.....	\$20.00
c) Total Owing	<u>\$545.00</u>

07 December 2022

Date

Jaclyn Casler
Residential Tenancies Tribunal