

Residential Tenancies Tribunal

Application 2022-No.0963 -NL

Decision 22-0963-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 11:15 a.m. on 30-November-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 her 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 she 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, by prepaid registered mail on 04-November-2022. The landlord provided the tracking number ([REDACTED]) that shows the package was delivered on 07-November-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.
5. The landlord amended their application to increase rent from \$1,630.00 to \$1,893.00 to reflect the current amount of rent due.

Issues before the Tribunal

6. The landlord is seeking:
 - Rent \$1,893.00
 - Vacant possession of rental premises
 - Hearing Expenses \$20.00

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 19: Notice where failure to pay rent.

Issue 1: Rent \$1.893.00

Relevant Submissions

9. The landlord submitted a rental agreement (LL#02) with the application. They entered a written monthly agreement with the tenant on 28-March-2018. They renewed the agreement on 01-June-2022. The tenant pays \$263.00 rent a month. The rental period is from the 1st day of the month until the last day; rent is due the 1st day of each month. The landlord said that the tenant did not pay a security deposit.
10. The landlord submitted a rent ledger (LL#03), he said that the tenant started 2022 with a credit of \$237.00, as follows:

Rent ledger
2022-0963-NL

Date	Action	Amount	total
1-Jan-22	credit	-237.00	-237.00
1-Jan-22	rent due	263.00	26.00
1-Feb-22	rent due	263.00	289.00
1-Mar-22	rent due	263.00	552.00
1-Apr-22	rent due	263.00	815.00
1-May-22	rent due	263.00	1078.00
1-Jun-22	rent due	263.00	1341.00
3-Jun-22	payment	-500.00	841.00
1-Jul-22	rent due	263.00	1104.00
1-Aug-22	rent due	263.00	1367.00
29-Aug-22	payment	-263.00	1104.00
1-Sep-22	rent due	263.00	1367.00
1-Oct-22	rent due	263.00	1630.00
1-Nov-22	rent due	263.00	1893.00

11. The landlord is seeking full reimbursement for rent owed.

Analysis

12. 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 \$1,893.00.
13. The tenant shall pay the landlord the rent owed totaling \$1,893.00.

Decision

14. The landlord's claim for rent succeeds in the amount of \$1,893.00.

Issue 2: Vacant Possession of the Rental Premises

Relevant Submissions

15. The landlord submitted a termination notice (LL#04). It is on a "landlord's notice to terminate early – cause" form for failure to pay rent. The notice is signed and dated for 21-July-2022 with a termination date of 30-August-2022.
16. The landlord said that they sent the notice by mail and email, they also posted it on the tenant's door on 21-July-2022.

Analysis

17. The notice was served under Section 19, of the *Residential Tenancies Act, 2018*, which states:

Notice where failure to pay rent

19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),

.....

(b) where the residential premises is

*(i) rented from **month to month**,*

(ii) rented for a fixed term, or

(iii) a site for a mobile home, and

*the amount of rent payable by a tenant is **overdue for 5 days or more**, the landlord may give the tenant notice that the rental agreement is terminated and that the tenant is required to vacate the residential premises on a specified date not less than 10 days after the notice is served on the tenant.*

.....

(4) In addition to the requirements under section 34, a notice under this section shall

(a) be signed by the landlord;

(b) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and

(c) be served in accordance with section 35.

.....

18. The tenant was in rent arrears in excess of the 5 days when the notice was served. On the date of termination, the tenant was still in arrears. The termination notice meets the requirements of the Act and is a valid notice. The notice was served in accordance of the Act.
19. The tenant should have vacated the property by 30-August-2022.

Decision

20. The landlord's claim for an order for vacant possession succeeds.
21. The tenant shall vacate the premises immediately.
22. The tenant shall pay to the landlords any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.
23. The tenant shall pay a daily rate for rent calculated as follows: \$263.00 per month x 12 months = \$3,156.00 a year divided by 365 days = \$8.85 a day. The tenant shall pay to the landlord \$8.85 a day beginning 01-December-2022, until such time as the landlords regain possession of the property.

Issue 3: Hearing expenses reimbursed \$20.00

24. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#05) and pursuant to policy 12.01, is entitled to reimbursement of that cost from the tenant.

Summary of Decision

25. The tenant shall:

- Pay the landlord \$1,913.00 as follows:
 - Rent \$1,893.00
 - Hearing expenses 20.00
 - Total \$1,913.00
- Pay a daily rate of rent of \$8.85 a day beginning 01-December-2022, until such time as the landlords regain possession of the property.
- Vacate the property immediately
- Pay to the landlords any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.

The landlord

- Is awarded an Order of Possession.

December 7, 2022

Date



Jacqueline Williams, Adjudicator
Residential Tenancies Office