

## Residential Tenancies Tribunal

Application 2022-No.1019 -NL

Decision 22-1019-00

Jacqueline Williams  
Adjudicator

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### Introduction

1. Hearing was called at 2:51 p.m. on 26-January-2023.
2. The applicant, [REDACTED] represented by [REDACTED] and [REDACTED], hereinafter referred to as "landlord1 and landlord2" attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant" attended by teleconference.

### Preliminary Matters

4. Landlord1 confirmed the submitted affidavit (LL#01) stating that they served the tenant with notification of a hearing scheduled for 16-January-2023. Due to a teleconference failure the hearing was rescheduled to today's date. Both parties were notified by Residential Tenancies Office of the change in date. The tenant confirmed these notifications.
5. The landlord amended their application to decrease rent from \$2,250.00 to \$1,850.00 to reflect the current amount of rent due.

### Issues before the Tribunal

6. The landlord is seeking:
  - Rent \$1,850.00
  - 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 \$1,850.00

### Landlord's Position

9. The landlords submitted a rental agreement (LL#02) with their application. Landlord1 reviewed the written term agreement they have with the tenant beginning, 01-September-2015 until 01-August-2016. They are currently in a monthly agreement. The landlords purchased the rental property and the tenancy transferred to them in November 2021. The tenant's rent increased from \$1,100.00 to \$1,200.00 per month in September 2022. The rental period is from the 1<sup>st</sup> day of the month until the last day; rent is due the 1<sup>st</sup> day of each month. The landlord said that the tenant paid a security deposit of \$840.00 when she took possession in 2015, this deposit transferred to them with the sale of the property and they are still in possession of the deposit.
10. Landlord1 explained that the tenant was up to date in her rent payments in June 2022, however she fell behind in the payments. The landlords submitted the following rent ledger:

Rent ledger  
2022-1019-NL

Date	Action	Amount	total
1-Jul-22	rent due	1100.00	1100.00
12-Jul-22	payments	-550.00	550.00
1-Aug-22	rent due	1100.00	1650.00
5-Aug-22	payments	-550.00	1100.00
1-Sep-22	rent due	1200.00	2300.00
21-Sep-22	payments	-550.00	1750.00
1-Oct-22	rent due	1200.00	2950.00
5-Oct-22	payments	-500.00	2450.00
1-Nov-22	rent due	1200.00	3650.00
8-Nov-22	payments	-900.00	2750.00
18-Nov-22	payments	-500.00	2250.00
1-Dec-22	rent due	1200.00	3450.00
31-Dec-22	payments	-1200.00	2250.00
1-Jan-23	rent due	1200.00	3450.00
21-Jan-23	payments	-1200.00	2250.00
24-Jan-22	payments	-400.00	1850.00

11. The landlords are seeking full reimbursement of rent owed.

### Tenant's Position

12. The tenant confirms the details of the rental agreement as stated by the landlords.
13. The tenant agrees to the submitted rent ledger and subsequent balance owed.

### **Analysis**

14. Non-payment of rent is a violation of the rental agreement (LL#02). There is no dispute here, both parties agreed to rent owed. As this Tribunal does not consider future rent; the rent ledger has been modified to show a daily rate of rent for the month of January, up to and including the day of the hearing. See amended ledger below:

Rent ledger 2022-1019-NL				
1-Jul-22	rent due		1100.00	1100.00
12-Jul-22		payments	-550.00	550.00
1-Aug-22	rent due		1100.00	1650.00
5-Aug-22		payments	-550.00	1100.00
1-Sep-22	rent due		1200.00	2300.00
21-Sep-22		payments	-550.00	1750.00
1-Oct-22	rent due		1200.00	2950.00
5-Oct-22		payments	-500.00	2450.00
1-Nov-22	rent due		1200.00	3650.00
8-Nov-22		payments	-900.00	2750.00
18-Nov-22		payments	-500.00	2250.00
1-Dec-22	rent due		1200.00	3450.00
31-Dec-22		payments	-1200.00	2250.00
1-Jan-23	daily rate of rent Jan 01 - 26		1025.70	3275.70
21-Jan-23		payments	-1200.00	2075.70
24-Jan-22		payments	-400.00	1675.70

Daily rate:  $1200 \times 12 \text{ months} = \$14,400.00$

$\$14,400.00 \text{ divided by } 365 = \$39.45$

$\$39.45 \times 26 \text{ days} = \$1,025.70$

15. The tenant shall pay the landlords the rent owed totaling \$1,675.70.

### **Decision**

16. The landlord's claim for rent succeeds in the amount of \$1,675.70.

## Issue 2: Vacant Possession of the Rental Premises

### Landlord's Position

17. The landlords 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 01-November-2022 with a termination date of 14-November-2022.
18. Landlord1 said that they served the notice by taping it to the tenant's door on 01-November-2022; the date signed.

### Tenant's Position

19. The tenant confirms service of the termination notice as stated by landlord1.

## Analysis

20. 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.*

.....

21. 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.
22. The tenant should have vacated the property by 14-November-2022.

### **Decision**

23. The landlord's claim for an order for vacant possession succeeds.
24. The tenant shall vacate the premises immediately.
25. 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.
26. The tenant shall pay a daily rate for rent beginning 27-January-2023 of \$39.45, as per paragraph 14, until such time as the landlords regain possession of the property.

### **Issue 3: Hearing expenses reimbursed \$20.00**

27. The landlords submitted the receipt for \$20.00 for the cost of the hearing (LL#05) and pursuant to policy 12.01, as their claim has been successful, they are entitled to reimbursement of that cost from the tenant.

### **Summary of Decision**


28. The tenant shall:
  - Pay the landlords \$1,695.70 as follows:
    - Rent ..... \$1,675.70
    - Hearing expenses ..... 20.00
      - Total ..... \$1,695.70
  - Pay a daily rate of rent beginning 27-January-2023 of \$39.45, 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

- Will be awarded an Order of Possession.

February 1, 2023

Date

  
Jacqueline Williams, Adjudicator  
Residential Tenancies Office