

## Residential Tenancies Tribunal

Application 2022 No. 1054NL

Decision 22-1054-00

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 11:16 AM on 17 January 2023 via teleconference.
2. The applicant, [REDACTED], was represented at the hearing by [REDACTED], hereinafter referred to as "the landlord".
3. The respondent, [REDACTED], hereinafter referred to as "the tenant", was not in attendance.

### Issues before the Tribunal

4. The landlord is seeking the following:
  - An order for a payment of rent in the amount of \$3376.00, and
  - An order for vacant possession of the rented premises.

### Legislation and Policy

5. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
6. 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

7. The tenant was not present or represented at the hearing and there was no number where he could be reached 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 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 with her application stating that the tenant was served with the application, by registered mail, and the associated tracking history shows that he had signed for that mail on 08 December 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 his absence.

8. The landlord amended her application at the hearing and stated that she was no longer seeking an order for vacant possession of the rented premises as the tenant moved out on 06 January 2023. She also stated that she was now seeking a total of \$3451.15 in rent.

### **Issue 1: Rent - \$3451.15**

#### **Relevant Submissions**

9. The landlord testified that she had had entered into a month-to-month rental agreement with the tenant on 20 December 2021, and a copy of that executed agreement was submitted with her application. The agreed rent was set at \$422.00 per month.
10. The tenant fell into rental arrears in May 2022, and on 03 November 2022 she issued him a termination notice, and a copy of that notice was submitted with her application. 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 25 November 2022. The landlord regained possession of the unit on 06 January 2022.
11. With her application, the landlord submitted a copy of her rent records, showing the payments the tenant had made since 30 April 2022, when he last had a zero balance. According to these records, the tenant has not made any payments towards his rent since that time.
12. The landlord is seeking an order for a payment of \$3376.00 for the period ending 31 December 2022 (8 months x \$422.00 per month) as well as a pro-rated rent of \$75.15 for January 2023, for a total claim of \$3451.15.

#### **Analysis**

13. I accept the testimony and evidence of the landlord in this matter, and I find that, since 30 April 2022, the tenant had paid no rent to the landlord. As such, I agree with her that the tenant owes \$3451.15 for the period between 01 May 2022 through to 06 January 2023, as claimed.

## Decision

14. The landlord's claim for a payment of rent succeeds in the amount of \$3451.15.

## Issue 2: Hearing Expenses

15. The landlord paid a fee of \$20.00 to file this application. As her claim has been successful, the tenant shall pay this hearing expense.

## Summary of Decision

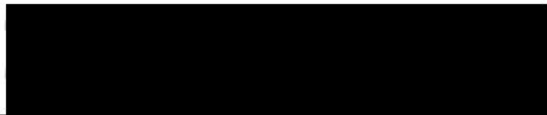
16. The landlord is entitled to the following:

- A payment of \$3471.15, determined as follows:

a) Rent Owing .....	\$3451.15
b) Hearing Expenses .....	\$20.00
c) Total .....	<u>\$3471.15</u>

24 January 2023

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Date

  
John R. Cook  
Residential Tenancies Tribunal