

Residential Tenancies Tribunal

Application 2022-No.1108 -NL

Decision 22-1108-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 11:18 a.m. on 31-January-2023.
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” attended by teleconference.

Preliminary Matters

4. The landlord submitted an affidavit stating that they had served the tenant notification of today’s hearing by pre-paid registered mail on 06-January-2023 and the tracking information shows this mail was delivered on 19-January-2023. The tenant confirms receipt of notification as stated.
5. The landlord amended their application to decrease utilities paid from \$401.75 to \$301.75 to reflect the current amount of rent due.

Issues before the Tribunal

6. The landlord is seeking:
 - Utilities paid \$301.75
 - Vacant possession of rental premises

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 are the following sections of the *Residential Tenancies Act, 2018*: Section 10: Statutory Conditions, Section 14: Security deposit, and Section 19: Notice where failure to pay rent.

Issue 1: Utilities paid \$301.75

Landlord's Position

9. The landlord stated they entered a written monthly agreement with the tenant starting 01-May-2022. The tenant pays \$860.00 a month for the rental; which is in a multi-unit apartment building. 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 paid a security deposit of \$645.00 on 26-April-2022 and they are still in possession of the deposit.
10. The landlord submitted a rent ledger (LL#02). The rent ledger shows that the tenant has incurred a charge for bed bug removal totaling \$401.75. The landlord provided the billing from Orkin, as well as, a letter dated 08-November-2022 (LL#03) explaining the charge to the tenant.
11. The landlord indicates that the tenant has made two payments towards the cost of the bed bug charge totaling \$100.00. The landlord is seeking the remaining balance of \$301.75 from the tenant.

Tenant's Position

12. The tenant stated that the bed bug treatment has not worked. He confirms that he is making payments towards the balance owed and would like to continue to pay the landlord \$50.00 a month until this debt is concluded.

Analysis

13. Section 10 of the Residential Tenancies Act, 2018 is as follows:

Statutory conditions

10. (1) Notwithstanding an agreement, declaration, waiver or statement to the contrary, where the relationship of landlord and tenant exists, there shall be considered to be an agreement between the landlord and tenant that the following statutory conditions governing the residential premises apply:

.....

2. Obligation of the Tenant - The tenant shall keep the residential premises clean, and shall repair damage caused by a wilful or negligent act of the tenant or of a person whom the tenant permits on the residential premises.

14. The billing for the tenant, should not be included in a rent ledger as rent, the landlord, however it is noted that the landlord applied to this tribunal for this charge as a utility. It is incumbent of the tenant to maintain their premises and keep it clean; bed bugs would be considered a health and safety issue and can impact the neighboring apartments. I find that the landlord has shown through their evidence and testimony that the

extermination cost was required and the *Act* determines that the tenant is responsible for this upkeep.

15. I find that the tenant shall pay to the landlord the remaining cost of the Orkin bill totaling \$301.75.

Decision

16. The landlord's claim for bed bug removal succeeds in the amount of \$301.75.

Issue 2: Vacant Possession of the Rental Premises

Landlord's Position

17. 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 17-November-2022, with a termination date of 29-November-2022.
18. The landlord said that the Resident Manager placed the notice under the tenant's door on 17-November-2022.

Tenant's Position

19. The tenant confirms receipt of the notification as stated by the landlord. He doesn't want to move.

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.*

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- (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 does owe the landlord for the cost of bed bug removal, however as stated in paragraph 14 this charge is not rent and should not be included in the rent ledger. The landlord has not proven that the tenant was in rent arrears at the time of the notice. The notice is therefore not valid and fails.

Decision

22. The landlord's claim for an order for vacant possession fails.


Summary of Decision

23. The tenant shall pay to the landlord \$301.75 for the cost of bed bug extermination.

The landlord's termination notice dated 17-November-2022 fails.

February 9, 2023

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office