

Residential Tenancies Tribunal

Applications: 2023 No. 0020 NL

Decision 23-0020-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 2:01 PM on 07 March 2023 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing. However, the respondents [REDACTED] and [REDACTED] hereinafter referred to as “tenant1” and “tenant2” did not participate and were not represented.
3. The landlord provided two affidavits of service, one for each tenant, confirming both served by email to [REDACTED] (L#1). Proof of separate email service to both tenants through this same email was provided. As was proof of other conversations submitted between the landlord and tenant1, where tenant1 provided the email address used.
4. The details of the claim were presented as a 12 month fixed term rental agreement that started 01 September 2022 (L#2). Monthly rent was set at \$800.00 due at the first of the month and a security deposit was not collected.
5. In a proceeding under the *Residential Tenancies Act, 2018*, 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 an order for the payment of rent in the amount of \$1,865.00.

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 is section 18 of the *Act* and rule 29 of *The Rules of the Supreme Court, 1986*.

Preliminary Matters

9. The tenants were not present or represented at the hearing and I was unable to reach them at the telephone numbers provided: [REDACTED] or [REDACTED]. This Tribunal's policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*.
10. 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 they have been properly served.
11. As the tenants were properly served, and any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.

Issue 1: Payment of Rent (\$1865.00)

Relevant Submissions

12. The rental premises is a two unit apartment located at [REDACTED]. The tenants resided in the main floor. The landlord testified that she was contacted by the lower unit tenant on 27 December 2022 indicating that the main floor tenants had vacated. The landlord submitted notice she received from NL Power indicating that utilities for the main floor unit were returned to her name on 28 December 2022 (L#3). The landlord also submitted proof of other conversations with tenant1 where the tenant wrote in part (L#4):

"...I don't even know how you would think you'd get rent for January when we ain't even there etc etc....."

13. The landlord submitted her rental ledger for the tenants (L#5) and read into the record when rent payments were received from the tenants between September 2022 and December 2022. As shown in the ledger, the landlord identified that \$265.00 in rent was outstanding for November 2022 and no payment of rent was received for December 2022. She further testified that she is seeking payment of rent for the month of January 2023 (e.g., \$800.00) because she was only able to secure new tenants for the rental premises from 01 February 2023 onwards.

Analysis

14. The landlord is responsible for establishing the rate of rent and the tenant's history with payment rent. Based on my review of the evidence and testimony submitted, I accept that the tenants owed \$1,065.00 in rental arrears as at 31 December 2022. Furthermore, I find that the tenants owe the landlord an additional \$800.00 in rent for January 2023 because they signed a fixed term rental agreement and did not provide proper notice they would be vacating. Consequently, I find that the landlord successfully established on the balance of probabilities that she is entitled to payment of rent from the tenants in the amount claimed.

Decision

15. The landlord's claim for rent succeeds in the amount of \$1,865.00.

Issue 2: Hearing Expenses

16. The landlord claimed the \$20.00 expense of applying for this hearing. She also claimed the costs of securing a notary as required for submitting affidavits of service from her location in Ontario. A verifiable receipt in the amount of \$90.37 was submitted for these services (see page 2 in L#6). Because the landlord's claims for compensation have been successful, the tenants shall pay this total expense of \$110.37.


Summary of Decision

17. The tenants shall pay to the landlord the amount of \$1,975.37 determined as follows:

a) Rent.....	\$1,865.00
b) Hearing Expenses	\$110.37
c) Total.....	<u>\$1,975.37</u>

13 March 2023

Date


Jaclyn Casler
Residential Tenancies Tribunal