

## Residential Tenancies Tribunal

Application 2023 No. 80NL

Decision 23-0080-00

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 9:08 AM on 27 February 2023 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord", participated in the hearing. The respondent, [REDACTED], hereinafter referred to as "the tenant", was not in attendance.

### Issues before the Tribunal

3. The landlord is seeking the following:
  - An order for a payment of rent in the amount of \$550.00;
  - An order for a payment of late fees in the amount of \$43.00; and
  - An order for a payment of her hearing expenses in the amount of \$20.00.

### Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case is section 15 of the Residential Tenancies Act, 2018 and rule 29 of *The Rules of the Supreme Court, 1986*.

### Preliminary Matters

6. The tenant was not present or represented at the hearing. I contacted him at the commencement of the hearing and he informed me that he did not wish to participate. 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 she sent the application and notice of the hearing to the tenant, by e-mail, on 14 February 2023, and a copy of that e-mail was also submitted. 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.

7. The landlord amended her application at the hearing and stated that she was now seeking the maximum late fee of \$75.00, and her total hearing expenses are now \$45.00.

### **Issue 1: Rent - \$550.00**

#### **Relevant Submissions**

8. The landlord stated that she had initially entered into a written rental agreement with the tenant to rent a room in her home for the period from 20 December to 31 December 2022, for \$300.00.
9. At the end of December 2022, a new agreement was entered into, whereby the tenant would rent that room on monthly basis, commencing 01 January 2023. The agreed monthly rent was set at \$750.00, payable semi-monthly in installments of \$375.00.
10. On 03 January 2023, the landlord stated that the tenant had come home late, he was drunk, and banging on the walls. The landlord stated that she did not feel safe or comfortable with the tenant acting that way in her home, and on the following day, 04 January 2023, she told him that he would have to move out by 31 January 2023. The tenant vacated on 16 January 2023, without giving any prior notice.
11. The landlord stated that during January 2023, she had only received one payment of \$200.00 from the tenant towards rent for that month. That payment was made on 04 January 2023. No other payments were made, and the landlord is seeking the remaining \$550.00 for that month.

#### **Analysis**

12. I accept the landlord's claim that she had only received \$200.00 in rent for the month of January 2023. I also accept the landlord's claim that the tenant abandoned the unit on 16 January 2023 without giving her any notice that he was moving out. Given that she had no prior notice, I find it highly unlikely that she would have been able to find anyone to move in prior to 01 February 2023. As such, the landlord's claim succeeds in the amount of \$550.00.

## Decision

13. The landlord's claim for a payment of rent succeeds in the amount of \$550.00.

## Issue 2: Late Fees - \$75.00

14. The landlord has assessed a \$75.00 late fee

## Analysis

15. Section 15 of the *Residential Tenancies Act, 2018* states:

### ***Fee for failure to pay rent***

***15. (1) Where a tenant does not pay rent for a rental period within the time stated in the rental agreement, the landlord may charge the tenant a late payment fee in an amount set by the minister.***

The minister has prescribed the following:

*Where a tenant has not paid the rent for a rental period within the time specified in the Rental Agreement, the landlord may assess a late payment fee not to exceed:*

*(a) \$5.00 for the first day the rent is in arrears, and*

*(b) \$2.00 for each additional day the rent remains in arrears in any consecutive number of rental payment periods to a maximum of \$75.00.*

16. As the tenant has been in rental arrears since 02 January 2023, the landlord is entitled to a payment of the maximum fee of \$75.00 set by the minister.

## Decision

17. The landlord's claim for late fees succeed in the amount of \$75.00.

## Issue 3: Hearing Expenses

18. The landlord paid a fee of \$20.00 to file this application, and receipt of that payment is on file. The landlord also claimed that she had paid \$25.00 to have her affidavit signed by a commissioner, but no receipt was submitted with her application. As the landlord's claim has been successful, the tenant shall pay her receipted hearing expenses.

## Summary of Decision

19. The landlord is entitled to a payment of \$645.00, determined as follows:

a) Rent Owing .....	\$550.00
b) Late Fees.....	\$75.00
c) Hearing Expenses .....	\$20.00
d) Total Owing to Landlord.....	<u>\$645.00</u>

22 March 2023

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Date

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John R. Cook  
Residential Tenancies Tribunal