

## Residential Tenancies Tribunal

Application 2023 No. 404NL

Decision 22-0404-00

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 1:52 PM on 07 June 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 also in attendance.

### Issues before the Tribunal

3. The landlords are seeking the following:
  - An order for a payment of rent in the amount of \$420.00, and
  - An order for vacant possession of the rented premises.

### 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 are sections 16 and 18 of the *Residential Tenancies Act, 2018*.

### Preliminary Matters

6. The landlords amended his application at the hearing and stated that he is now seeking \$500.00 in rent.

## **Issue 1: Rent Owing - \$500.00**

### **Relevant Submissions**

#### The Landlord's Position

7. The landlord stated that he had entered into a monthly rental agreement with the tenant on 01 August 2022, and a copy of that executed agreement was submitted with his application. The agreed rent was set at \$450.00 per month, and it is acknowledged in this agreement that the tenant had paid a \$200.00 security deposit, as well as a \$50.00 "key deposit".
8. The landlord stated that he had sent a notice to the tenant, informing him, that as of 01 June 2023, the rent would be increased to \$500.00 per month.
9. The landlord stated that the tenant has not paid his rent for June 2023 and he is seeking an order for a payment of \$500.00 for that month.

#### The Tenant's Position

10. The tenant asked whether a landlord was permitted to increase rent during the first 12 months of a tenancy.
11. With respect to June 2023, the tenant acknowledged that he had not paid his rent for that month, but he claimed that the landlord had not asked him for it.

### **Analysis**

12. There is no dispute that no rent had been paid for June 2023. During the hearing, I pointed out that, according to section 16.(2) of the *Residential Tenancies Act, 2018*, a landlord may not increase rent during the first 12 months of a monthly tenancy. The landlord acknowledged that point and stated that he was therefore only seeking \$450.00 for June 2023.
13. As the landlord is also seeking an order for vacant possession of the rented premises, I find that he is entitled to a payment of rent to the date of the hearing, and a per diem thereafter.
14. I calculate the amount owing to be \$103.53 (\$450.00 per month x 12 months = \$5400.00 per year ÷ 365 days = \$14.79 per day x 7 days).

### **Decision**

15. The landlord's claim for a payment of rent succeeds in the amount of \$103.53.
16. The tenant shall pay a daily rate of rent in the amount of \$14.79, beginning 08 June 2023, and continuing to the date the landlord obtains vacant possession of the rented premises.

## Issue 2: Vacant Possession of Rented Premises

### Relevant Submissions

#### The Landlord's Position

17. With his application the landlord submitted copies of 2 termination notices which he had sent to the tenant by e-mail at the end of January 2023. Both of these notices were issued under section 18 of the *Residential Tenancies Act, 2018*. The first notice was issued on 26 January 2023 and it had an effective termination date of 30 April 2023. The landlord testified that the tenant had asked for an extension, and, on 31 January 2023, he issued the second notice, which had a termination date of 31 May 2023.
18. The tenant has not moved out, as required, and the landlord is seeking an order for vacant possession of the rented premises.

#### The Tenant's Position

19. The tenant stated that when he had entered into this agreement with the landlord, he had thought that he had signed on for a 1-year term. He stated that he had been paying his rent 3 months' in advance, but when he learned that he was in a monthly tenancy, he then only provided the landlord with 1 month's rent. He argued that it was because he had only paid for 1 month, and not 3, that the landlord decided to terminate this agreement.
20. The tenant acknowledged that the submitted agreement indicates that this tenancy was running month-to-month, but he claimed that he had a verbal agreement with the landlord that it was to be a long-term lease, and he claimed he never would have taken the apartment if the term was not to run for at least 1 year.

### Analysis

21. The relevant subsections of s.18 of the *Residential Tenancies Act, 2018* state:

#### ***Notice of termination of rental agreement***

***18. (2) A landlord shall give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises***

...

***(b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month; and***

(c) *not less than 3 months before the end of the term where the residential premises is rented for a fixed term.*

...

(9) *In addition to the requirements under section 34, a notice under this section shall*

- (a) *be signed by the person providing the notice;*
- (b) *be given not later than the first day of a rental period;*
- (c) *state the date, which shall be the last day of a rental period, on which the rental agreement terminates and the tenant intends to vacate the residential premises or the date by which the tenant is required to vacate the residential premises; and*
- (d) *be served in accordance with section 35*

22. Had this agreement been a 1-year lease, as the tenant claims he had thought it was, then the earliest the landlord could have terminated the agreement would have been 31 July 2023, the last day of that 1-year term, had it begun on 01 August 2022. If it is a monthly agreement, as the landlord contends, and not a fixed-term lease, then the only requirement is that the notice be issued at least 3 months before the effective termination date set out in the notice. On this point, I have to side with the landlord—the submitted rental agreement, signed by both parties, states that this tenancy is running on a month-to-month basis, and no evidence was presented at the hearing that would convince me that the parties had intended otherwise.
23. Section 18 of the *Act* allows a landlord to terminate a rental agreement without having to provide reasons to either the tenant or this Board. As the termination notice was properly served and as it meets all the requirements set out in section 18 and 34 of the *Act*, I find that it is a valid notice.

## **Decision**

24. The landlord's claim for an order for vacant possession of the rented premises succeeds.
25. The tenant shall pay to the landlord 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.

### **Issue 3: Security Deposit**

26. The landlord stated that the tenant had paid a total security deposit of \$250.00 on 30 July 2022. As the landlord's claim has been successful, that deposit shall be disposed of as outlined in this decision and attached order.

### **Summary of Decision**

27. The landlord is entitled to the following:

- Authorization to retain \$103.53 of the security deposit for rent owing,
- An order for vacant possession of the rented premises,
- A payment of a daily rate of rent in the amount of \$14.79, beginning 08 June 2023 and continuing to the date the landlord obtains possession of the rental unit,
- The tenant shall also pay to the landlord 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.

13 June 2023

\_\_\_\_\_  
Date

John R. Cook  
Residential Tenancies Tribunal