

Residential Tenancies Tribunal

Application 2023 No. 503NL

Decision 23-0503-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:07 AM on 22 June 2023 via teleconference.
2. The applicant, [REDACTED] hereinafter referred to as “the landlord”, attended the hearing. The respondent, [REDACTED] hereinafter referred to as “the tenant”, was also in attendance.

Issues before the Tribunal

3. The landlord is seeking the following:
 - An order for payment of rent in the amount of \$4000.00, 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 is section 19 of the *Residential Tenancies Act, 2018*.

Issue 1: Rent Owing - \$4000.00

Relevant Submissions

The Landlord's Position

6. The landlord stated that he had entered into a monthly rental agreement with the tenant, commencing 01 February 2023, and a copy of that executed agreement

was submitted with his application. The agreed rent was set at \$1400.00 per month, and it was due in installments of \$700.00 on the 1st and 15th day of each month. The landlord also testified that the tenant had paid a \$600.00 security deposit.

7. The landlord submitted rent records with his application showing the payments the tenant had made since he had moved into the unit. According to these records, the tenant had made his first 3 bi-weekly installments, but no rent was received for 15 March 2023 or 01 April 2023. On 19 April 2023, the tenant made a \$1000.00 payment, but no payments have been made since.
8. The landlord calculates that the tenant owes him \$4000.00 for the period ending 30 June 2023, and he is seeking an order for a payment of that amount.

The Tenant's Position

9. The tenant did not dispute the landlord's record of payments and he acknowledged that he owes \$4000.00. He claimed at the hearing that this issue should be resolved in a few weeks and he promised the landlord that he would receive that outstanding rent.

Analysis

10. As the tenant did not contest the landlord's claim for rent, I find that that claim succeeds. However, included in the balance owing, the landlord has included a \$100.00 charge for the remaining security deposit. That charge is not rent and I have deducted it from the amount owing.
11. 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. I calculate the amount owing to be \$3568.24 (\$3200.00 owing for the rental period ending 14 June 2023 and \$368.24 for the rental period beginning 15 June 2023 (\$700.00 per rental period x 24 periods = \$16,800.00 per year ÷ 365 days = \$46.03 per day x 8 days)).

Decision

12. The landlord's claim for a payment of rent succeeds in the amount of \$3568.24.
13. The tenant shall pay a daily rate of rent in the amount of \$46.03, beginning 23 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

14. With his application, the landlord submitted a copy of a termination notice which he stated he had left on the tenant's door on 10 May 2023. That notice was issued under section 19 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 23 May 2023.
15. The landlord stated that the tenant has not moved out, as required, and he is seeking an order for vacant possession of the rented premises.

The Tenant's Position

16. The tenant acknowledged receiving this notice on 10 May 2023.

Analysis

17. Section 19 of the *Residential Tenancies Act, 2018* 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.

(2) Notwithstanding subsection (1), where the tenant pays the full amount of the overdue rent, including a fee under section 15, before the date specified in the notice under paragraph (1)(a) or (b), the rental agreement is not terminated and the tenant is not required to vacate the residential premises.

18. According to the landlord's records, on 10 May 2023, the day the termination notice was issued, the tenant was in arrears in the amount of \$1800.00, and he had been in arrears for since 16 March 2023. No payments were made by the tenant after the notice was issued, and since then the rent for the next 3 rental periods has also come due.
19. As the notice meets all the requirements set out in this section of the *Act*, and as it was properly served, it is a valid notice.

Decision

20. The landlord's claim for an order for vacant possession of the rented premises succeeds.
21. 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

22. The landlord stated that the tenant had paid a security deposit of \$600.00, in 2 installments, on 11 January and 26 January 2023. As the landlord's claim has been successful, he shall retain that deposit as outlined in this decision and attached order.

Summary of Decision

23. The landlord is entitled to the following:
 - A payment of \$2968.24, determined as follows:
 - a) Rent Owing\$3568.24
 - b) LESS: Security Deposit..... (\$600.00)
 - c) Total.....\$2968.24
 - An order for vacant possession of the rented premises,
 - A payment of a daily rate of rent in the amount of \$46.03, beginning 23 June 2023 and continuing to the date the landlord obtains vacant 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.

23 June 2023

Date



John R. Cook
Residential Tenancies Tribunal