



## Residential Tenancies Tribunal

Application 2023-0509-NL

Decision 23-0509-00

Jacqueline Williams  
 Adjudicator

### Introduction

1. Hearing was called at 1:46 p.m. on 06-July-2023.
2. The applicant, [REDACTED] hereinafter referred to as "the landlord" attended by teleconference.
3. The respondents, [REDACTED] hereinafter referred to as "tenant1 and tenant2" attended by teleconference.

### Preliminary Matters

4. The landlord submitted an affidavit (LL#01) which incorrectly stated that they served the tenants with a notification of a certified order on 12-June-2023. The landlord corrected this and confirmed that this was the service of notification of the hearing. The tenants both confirmed receipt of notification at that time.
5. The landlord stated that the tenants moved out of the apartment 22-June-2023; premises vacated was therefore removed from the application.

### Issues before the Tribunal

6. The landlord is seeking
  - Rent \$1,350.00
  - Hearing expenses \$20.00

### 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*.
8. Also relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent.

**Issue 1: Rent \$1,350.00****Landlord's Position**

9. The landlord said that he had a verbal monthly agreement with the tenants. He confirmed that the tenants pay \$450.00 a month for rent, due on the 1<sup>st</sup> day of each month. The tenants weren't required to pay a security deposit. He was unsure of the move in date.
10. The landlord had served the tenants with a termination notice (LL#02) for failure to pay rent. He confirmed that the tenants moved out on 22-June-2023.
11. The landlord said when he gave the tenants their notice to move he had included the rent ledger. This was not included with the evidence. The landlord testified that the tenants payments are as follows:

Rent ledger  
2023-0509-NL

Date	Action	Amount	total
1-Mar-23	rent due	450.00	450.00
1-Mar-23	payment	-450.00	0.00
1-Apr-23	rent due	450.00	450.00
29-Apr-23	payment	-40.00	410.00
1-May-23	rent due	450.00	860.00
1-Jun-23	01-22 June daily rate	325.38	1185.38

Daily rate \$450 x 12 months = \$5,400.00

\$5,400 divided by 365 days = \$14.79

\$14.79 x 22 days = \$325.38

12. June rent was amended to show, up to and including the move out date.
13. The landlord confirms that he wasn't ready to rent but that the tenants needed a place to stay and he agreed. He said that the rent paid in May was for June but then the next payment was in July. He said that throughout the tenancy they had fallen behind in the rent and because they knew one another he would give them a break and let them pay whenever they had the money.

**Tenant's Position**

14. Tenant1 confirmed the details of the rental agreement and stated that they moved in June 2022. She said that they were unable to pay the rent so they moved out after being served the termination notice.
15. Tenant1 disputes the amount of rent owed. She said that they are family friends with the landlord. When they moved in the landlord was not ready to rent. She said that they paid rent on 01-May-2022 and put their belongings in the apartment the middle of the month. The landlord was supposed to get the apartment ready during that time. They then were [REDACTED] and subsequently moved in on 01-June-2022.

She said that it was their understanding<sup>3</sup> that the rent that was paid on 01-May-2022 was for June. This would therefore always put them in the position of being one full month ahead on rent. She said that they do not have receipts because they were all friends and they didn't believe that this was necessary.

### Analysis

16. In these proceedings the standard of proof is referred to as the balance of probabilities which means it has to be established that the account of events are more likely than not to have happened. When faced with a "he said she said" situation, establishing whose side is true can be difficult. When a landlord claims for rent owed, the burden of proof is that of the landlord.
17. The tenants have made a defense claim that their rent was always paid one month in advance; typically proof of payment is shown by receipts. The tenants acknowledge that they didn't receive receipts, however the burden of proof for rent owed remains that of the landlord. The landlord acknowledges that the tenants' May payment was for June and he states that there were a number of times rent was late, but he has not provided this tribunal with proof of those payments, typically shown in a rent ledger.
18. I find that the landlord has not provided evidence to support the claim for the possible missing months' rent, I accept that the tenants have paid a month in advance and therefore the amount owed is less \$450.00.
19. The tenants shall therefore pay to the landlord  $\$1,185.38 - 450.00 = \$735.38$  for rent owed.

### Decision

20. The landlord's claim for rent owed is successful totaling \$735.38.

### Issue 2: Hearing expenses reimbursed \$20.00

21. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#03) and pursuant to policy 12.01, is entitled to reimbursement of that cost from the tenant.

### Summary of Decision

22. The tenants shall pay to the landlord \$755.38 for rent and hearing expenses as follows:

- Rent..... \$735.38
- Hearing expenses ..... 20.00
- Total..... \$755.38

July 18, 2023

Date

  
Jacqueline Williams, Adjudicator  
Residential Tenancies Office