

## **Residential Tenancies Tribunal**

Application 2023-1099-NL

Decision 23-1099-00

Pamela Pennell  
Adjudicator

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### **Introduction**

1. Hearing was called at 9:12 a.m. on 22-January-2024.
2. The applicant, [REDACTED] hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED] hereinafter referred to as “the tenant” attended by teleconference.

### **Preliminary Matters**

4. The landlord submitted an affidavit with his application stating that he hired a process server to serve the tenant with the notice of hearing personally at [REDACTED] [REDACTED] on 8-January-2024 (LL#1). The respondent confirmed receiving the document on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There was a verbal month to month sublet rental agreement which commenced on 15-April-2023. The tenant vacated the unit on 31-October-2023. Rent was \$1000.00, due on the first day of each month. A security deposit was never paid.

### **Issues before the Tribunal**

6. The landlord is seeking:
  - a. Rent paid \$2000.00
  - b. Utilities \$1061.03
  - c. Compensation for damages \$693.15
  - d. Hearing expenses \$160.00

### **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 18: Notice of Termination of rental agreement. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Policy Manual*: Section 9-3: Claims for damages to rented premises and Section 12-1: Recovery of Fees.

### **Issue # 1: Rent Paid \$2000.00**

#### **Relevant Submission**

9. The landlord testified that rent is outstanding in the amount of \$2000.00 for the months of November and December 2023. The landlord submitted a copy of a rental ledger to support his claim (LL#2). See breakdown of rental ledger below:

| Rental Ledger 2023-1099-NL |          |            |            |
|----------------------------|----------|------------|------------|
| Date                       | Action   | Amount     | Total      |
| October 31, 2023           | Balance  | \$0.00     | \$0.00     |
| November 1, 2023           | Rent due | \$1,000.00 | \$1,000.00 |
| December 1, 2023           | Rent due | \$1,000.00 | \$2,000.00 |

#### **Landlord's Position**

10. The landlord testified that the tenant vacated the unit on 31-October-2023 without proper notice and is seeking rent to be paid for the months of November and December when the unit was vacant. The landlord testified that the tenant gave a verbal notice 10 days prior to his departure and the landlord also testified that he could not re-rent the unit until January 2024 leaving him with a loss of rent for 2 months.

#### **Tenant's Position**

11. The tenant did not dispute that he gave a 10-day notice to the landlord and expressed that he was in a verbal agreement with the landlord which did not require any notice.

#### **Analysis**

12. The following subsections of the *Residential Tenancies Act, 2018* states:

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

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

(b) not less than one month before the end of a rental period where the residential premises is rented from month to month.

13. The tenant was required to give not less than one month notice before the end of the rental period as stated above. The tenant did not dispute that he gave a 10-day notice and as such, I find that the tenant is responsible for one month's rent to cover the month of November 2023.

#### **Decision**

14. The landlord's claim for rent paid partially succeeds in the amount of \$1000.00.

## Issue # 2: Utilities \$1061.03

### Relevant Submission

15. The landlord testified that utilities are outstanding in the amount of \$1061.03. The landlord submitted a utility ledger and a copy of utility bills to support his claim (LL#3). See utility ledger below:

| Description of Utility Charges | Compensation Claimed |
|--------------------------------|----------------------|
|                                | \$ 450.00            |
| May 1 - 7/2023 Electricity     | \$ 136.50            |
| October 10/2023 Electricity    | \$ 99.50             |
| October 31/2023 Electricity    | \$ 130.40            |
| Oil Heat 1st half tank oil     | \$ 695.03            |

### Landlord's Position

16. The landlord testified that the tenant vacated the unit on 31-October-2023 with a verbal 10-day termination notice. The landlord is seeking to have NL Power bills paid in the amount of \$701.50 and the oil bill paid in the amount of \$695.03. The landlord stated that the tenant was responsible for a portion of the utilities, and he is seeking payment in the amount of \$1061.03.

### Tenant's Position

17. The tenant disputed that he was required to pay utilities while residing at the unit and testified that his rent of \$1000.00 per month included all utilities.

### Analysis

18. The burden of proof lies with the landlord to show that he had a rental agreement with the tenant to pay rent and utilities separately. There was no written rental agreement, and the NL Power bills were not in the tenant's name. The tenant disputed that he paid the utilities at the unit and stated that his rent of \$1000.00 per month included utilities. I find that the landlord was unable to show that the tenant was ever responsible for the utility bills and as such, I find that the tenant is not responsible for the NL Power bills and the oil bill as stated above in the utility ledger.

### Decision

19. The landlord's claim for utilities paid does not succeed.

## Issue # 3: Compensation for Damages \$693.15

### Relevant Submission

20. The landlord testified that there are damages / losses to the rental unit, and he submitted a damages ledger to support his claim (LL#4). See damages ledger below:

| Damages Ledger 2023-1099-NL           |          |          |
|---------------------------------------|----------|----------|
| Damages / losses                      | Amount   | Total    |
| 1). Molding in Kitchen to be replaced | \$100.00 | \$100.00 |
| 2). Mirror broken                     | \$300.00 | \$400.00 |
| 3). Locks to be replaced              | \$293.15 | \$693.15 |

### Landlord's Position

21. The landlord testified that the above list of items has been identified as damages / losses to the unit caused by negligence on the part of the tenant. The landlord stated that the following items were identified after the tenant vacated the unit. The landlord's position on each item is as follows:

Item # 1: Molding in kitchen to be replaced (\$100.00) – The landlord decided during the hearing that he was no longer seeking the cost to replace the molding.

Item # 2: Mirror broken (\$300.00) - The landlord testified that there was an antique mirror in the unit that got broken during the tenancy. The landlord stated that the mirror was roughly 80 years old and had sentimental value to him. The landlord stated that he has made several attempts to replace it by finding a similar mirror online. The landlord stated that the cost online to replace the mirror is approximately \$300.00.

Item # 3: Locks to be replaced (\$293.15) - The landlord testified that he had to replace 7 locks to the unit including the house and 3 garages. The landlord testified that he received an estimate in the amount of \$293.15 to have the work completed.

### Tenant's Position

22. The tenant did not dispute that the mirror got broken and testified that he is totally responsible for the broken mirror. The tenant did not make any comment on the landlord's claim to seek payment for the cost to replace the locks.

### **Analysis**

23. In accordance with *Residential Tenancies policy 9-3*, the applicant is required to show:

- *That the damage exists;*
- *That the respondent is responsible for the damage, through a willful or negligent act;*
- *The value to repair or replace the damaged item(s)*

24. Based on the testimony of both the applicant and the respondent and the exhibits entered into evidence, the items were analyzed as follows:

Item #2: Mirror broken (\$300.00) - The landlord stated that there was an antique mirror in the unit that got broken during the tenancy. The tenant stated that he was totally responsible for the broken mirror. I accept that the mirror was antique and had sentimental value to the landlord, however I am unable to determine the cost to replace the mirror as the landlord did not submit any evidence showing today's value of the mirror or the cost to replace it. I find that the tenant should be responsible to replace the mirror and without an estimate to do so, I can only award a nominal amount. I find that the tenant is responsible to pay \$150.00 to the landlord to replace the mirror.

Item # 3: Locks to be replaced (\$293.15) - The landlord testified that he has to replace all locks to the house and garages. I find that replacing locks to a rental unit once a

tenant vacates falls under the *cost of doing business* and as such, I find that the tenant is not responsible for the cost of replacing locks.

#### **Decision**

25. The landlord's claim for damages succeeds in the amount of \$150.00.

#### **Issue # 4: Hearing expenses \$20.00**

26. Section 12-1 of the *Residential Tenancies Policy Manual* states:

##### **Recovery of Fees**

12-1 Application fees for adjudication of a dispute in excess of the security deposit is allowable and other allowable hearing expenses include the cost of hiring a process server to personally serve a claim.

27. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and provided a copy of the receipt (LL#5). The landlord also utilized the services of a *Process Server* to serve the tenant. The fee charged by the process server was \$140.00 (LL#6).

28. As the landlord's claim has been partially successful, the tenant shall pay the \$160.00.

#### **Decision**

29. The landlord's claim for hearing expenses succeeds in the amount of \$160.00.

#### **Summary of Decision**

30. The tenant shall pay the landlord \$1310.00 as follows:

|                        |               |
|------------------------|---------------|
| Rent paid .....        | \$1000.00     |
| Utilities .....        | 0.00          |
| Damages .....          | 150.00        |
| Hearing expenses ..... | 160.00        |
| <br>Total .....        | <br>\$1310.00 |

January 25, 2024

Date

  
Pamela Pennell  
Residential Tenancies Office