

Residential Tenancies Tribunal

Application 2024-0196-NL

Decision 2024-0196-00

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 1:45 PM on 1 April 2024 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, attended the hearing.
3. The respondent, [REDACTED], hereinafter referred to as “the tenant”, attended the hearing.
4. Neither party called witnesses.

Preliminary Matters

5. The details of the claim was presented as a verbal fixed term rental agreement with rent set at \$1,500.00 and due on the 1st of each month. There was a security deposit collected on this tenancy in the amount of \$750.00 on 1 July 2023, which remains in the possession of the landlord (Exhibit L # 1). The tenant moved into the rental unit located at [REDACTED] on 1 July 2023 and remains in the property on the date of the hearing.
6. The landlord issued a termination notice on 6 March 2024 to terminate the tenancy on 17 March 2024 under section 19 of the *Residential Tenancies Act*, 2018 (Exhibit L # 2). The tenant was personally served (Exhibit L # 3) an application for dispute resolution on 20 March 2024. The tenant did not dispute being issued the Section 19 Notice or the Application for Dispute Resolution. In accordance with the *Residential Tenancies Act*, 2018, this is good service.
7. The landlord amended his application at the hearing to include rental arrears owing for the month of April 2024.

Issues before the Tribunal

8. The landlord is seeking the following:
- An order for vacant possession of the rented premises;
 - An order for payment of rent in the amount of \$2,310.00; and
 - An order for the security deposit to be used against monies owing.

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act*, 2018. Also, relevant and considered in this case are sections 14, 19, 34, 35, and 42 of the *Act*.

Issue 1: Vacant Possession of Rented Premises

10. The landlord submitted termination Notice under Section 19, in relation to the tenant's failure to pay rent (Exhibit L # 2). The notice is signed and dated for 6-March-2024, with a termination date of 17-March-2024.
11. The landlord testified that rent has been in arrears since December-2023, and although some payments have been made the tenant continued to carry a negative balance resulting in an outstanding amount of \$2,310.00 as of March-2024.

Analysis

12. Section 19 of the *Residential Tenancies Act*, 2018 states:
- a. **Notice where failure to pay rent**
 - b. **19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),**
 - i. (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
 - c. 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.
 - i. (4) In addition to the requirements under section 34, a notice under this section shall
 - (a) be signed by the landlord;

(b) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and

(c) be served in accordance with section 35.

13. The tenant had been in rental arrears in excess of 5 days when the notice was served on 6-March-2024 to vacate [REDACTED] by 17-March-2024. In accordance with Section 19 of the *Residential Tenancies Act, 2018* as stated above, the termination notice meets the requirements of the *Act* and is a valid notice.
14. I find the termination notice is a valid notice, and the tenant should have vacated the property by 17-March-2024.

Decision

15. The landlord's claim for an order for vacant possession succeeds.

Issue 2: Rent Owing- \$2,310.00

Landlord position

16. The landlord testified that, inclusive of April-2024, rent is outstanding in the amount of \$3,810.00 dating back to December-2023. The landlord submitted a copy of the rental ledger up to March-2024 to support their claim (LL#3) and is seeking rent to be paid in full. This ledger provided the following information:

Nov 1/23	November Rent	\$1500.00	\$1500.00	0.00
Dec 1/23	December Rent	\$1500.00	\$1080.00	\$420.00
Jan 1/24	January Rent	\$1500.00	\$0.00	\$1920.00
Feb 1/24	February Rent	\$1500.00	\$0.00	\$3420.00
Feb 10/24	February Payment	\$3420.00	\$610.00	\$2810.00
March 1/24	March Payment	\$2810.00	\$500.00	\$2310.00

Tenant Position

17. The tenant testified during the hearing that she did owe rental arrears and did not dispute the amount of rental arrears indicated by the landlord.

Analysis

18. Non-payment of rent is a violation of the rental agreement. Rent is required to be paid under a rental agreement by a tenant during the use or occupancy of a residential premises.

19. I find that the tenant is responsible for outstanding rent for 1-April-2024 (the date of hearing). That calculation is ($\$1,500.00 \times 12 \text{ months} = \$18,000.00 \div 366 \text{ days} = \49.18 per day $\times 1 \text{ days} = \49.18). The rental ledger is amended to show a daily rate for April-2024 as this tribunal does not consider future rent (see below).

Date	Transaction	Amount Due	Paid	Balance
1 Dec 2023	Rent due	\$1,500.00	\$1080.00	\$420.00
1 Jan 2024	Rent due	\$1,500.00	\$0.00	\$1,920.00
1 Feb 2024	Rent due	\$1,500.00	\$0.00	\$3,420.00
10 Feb 2024	Payment	\$3,420.00	\$610.00	\$2,810.00
1 March 2024	Rent due	\$2,810.00	\$0.00	\$4,310.00
1 March 2024	Payment	\$4,310.00	\$500.00	\$3,810.00
1 April 2024	Rent due	\$ 49.18	\$0.00	\$3,859.18

20. The tenant shall pay a daily rate of \$49.18 until such time as the landlord regains possession of the property.

Decision

21. The landlord's claim for rental arrears succeeds in the amount of \$3,859.18.

Issue 3: Security Deposit - \$750.00

22. The landlord is seeking to retain the security deposit of \$750.00. The landlord testified that the tenant had paid a security deposit of \$750.00 on 1 July 2023 and submitted evidence to support this claim (**Exhibit L # 1**). As the landlord's claim for rent has succeeded, he shall retain that deposit in this decision and attached order.

Decision

23. The landlord's claim for retention on the security deposit succeeds

Summary of Decision

24. The landlord is entitled to the following:

- A payment of **\$3,109.18**, as determined as follows:
 - a) Rent owing\$3,859.18
 - b) **Less: Security Deposit.....\$750.00**
 - c) Total.....**\$3,109.18**
- A payment of a daily rate of rent in the amount of \$49.18, beginning 2-April-2024 and continuing to the date the landlord obtains vacant possession of the rental unit.

- An order for vacant possession of the rented premises,
- 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.

3 May 2024

Date



Residential Tenancies Office