

## **Residential Tenancies Tribunal**

Application 2024-0236-NL

Decision 24-0236-00

Michael Reddy  
Adjudicator

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### **Introduction**

1. Hearing was called at 1:46 p.m. on 9-April-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 her application stating that she had served the tenant electronically by email to: [REDACTED] on 28-March-2024 (LL#1). The respondent confirmed receipt of the document on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There was a written month to month rental agreement which commenced on 27-October-2023. Rent was \$850.00 per month due on the first of each month. The landlord amended the application to increase rent paid and late fees from \$1775.00 as per application to \$2625.00 to include rent for the month of April. A security deposit of \$500 was paid on 27-October-2023.
6. The landlord amended the application to include rental arrears for April-2024.
7. The landlord also sought to amend her application to include payment of utilities for the month of March in the amount of \$992.83 and provided testimony on the matter during the hearing. However, as the initial application did not include a claim for payment of utilities, and the inclusion of such would be considered a significant amendment to the application, this matter will not be decided in this hearing.

## Issues before the Tribunal

8. The landlord is seeking:

- Rent and late fees paid \$2625.00
- Hearing expenses \$20.00

## 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*.

10. 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. Also, relevant and considered is Section 12-1 of the *Residential Tenancies Policy Manual*: Fees.

### Issue # 1: Vacant Possession of the Rented Premises

#### Relevant Submissions:

11. The landlord submitted a termination notice under Section 19: Notice where failure to pay rent. The notice is signed and dated for 26-March-2024, with a termination date of 6-April-2024 (LL#2). The landlord served the termination notice via email to:

[REDACTED]

#### Landlord's Position:

12. The landlord testified that rent has been in arrears since January-2024, and although payments have been made the tenant continued to carry a negative balance resulting in an outstanding amount of \$2550.00 plus late fees of \$75.00.

## Analysis

13. 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.*

*(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.

14. The tenant was in rent arrears in excess of the 5 days when the termination notice was served. On the date of termination, 06-April-2024, the tenant was in arrears. It is noted that the tenant advised that she had vacated the rental unit in March-2024, somewhere around the 20<sup>th</sup>, "give or take a few days".

15. While the tenant has already vacated the property, 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.

16. I find that the tenant should have vacated the property by 6-April-2024.

### **Decision**

17. The landlord's claim for an order for vacant possession of the rental premises succeeds.

### **Issue # 2: Rent and late fees paid \$2625.00.**

#### Relevant Submission

18. The landlord testified that rent and late fees are outstanding in the amount of \$2625.00 dating back to January 2024. The landlord submitted a copy of the rental ledger to support her claim (LL#3). See copy of ledger below:

Date	Transaction Description	Amount Due	Amount Paid	Balance
Examples showing ledger entry				
1-Jan-20	January Rent	\$1,200.00	-\$1,200.00	\$0
1-Feb-20	February Rent	\$1,200.00	-\$600.00	\$600.00
2-Feb-20	Late Fee Charge	\$5.00	\$0.00	\$605.00
3-Feb-20	Payment	\$0.00	-\$605.00	\$0.00
	February Rent	\$ 850.00		\$ 850.00
	March Rent	\$ 850.00		\$ 1,700.00
	Late Fee Charge	\$ 75.00		\$ 1,775.00

#### Landlord's Position

19. The landlord testified that rent and late fees are outstanding in the amount of \$2625.00 for the period of 1-February-2024 to 30-April-2024. The landlord is seeking rent to be paid in full.

20. The tenant confirmed during testimony that rent has not been paid since January-2024.

## Analysis

21. Section 15 of the *Residential Tenancies Act, 2018* states:

### Fee for failure to pay rent

**15. (1) Where a tenant does not pay rent for a rental period within the time stated in the rental agreement, the landlord may charge the tenant a late payment fee in an amount set by the minister.**

The minister has prescribed the following:

*Where a tenant has not paid the rent for a rental period within the time specified in the Rental Agreement, the landlord may assess a late payment fee not to exceed*

(a) \$5.00 for the first day the rent is in arrears, and

(b) \$2.00 for each additional day the rent remains in arrears in any consecutive number of rental payment periods to a maximum of \$75.00

22. *Residential Tenancies Policy 12-1; Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF* states:

### Late payment fee:

*A tenant is responsible to pay the landlord the full rent on the day the rent is due. If the rent is not paid on time, the landlord may charge the tenant a late payment fee of \$5.00 for the first day the rent is in arrears and \$2.00 for each additional day that the rent remains unpaid in any consecutive number of rental periods to a maximum of \$75.00.*

23. 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.

24. The rental ledger is amended to show a daily rate for April as this tribunal does not consider future rent (see below). The landlord's rental ledger shows that the tenant has been in arrears since 1-January-2024. I find that the maximum allowable late fee of \$75.00 as set by the Minister is a legitimate charge as stated above.

25. I find that the tenant is responsible for outstanding rent from 1-January to 6-April 2024 in the amount of \$1867.22 and late fees in the amount \$75.00.

Amended Rental Ledger 2024-0236-NL			
Date	Action	Amount	Total
December 31, 2024	Balance	\$0.00	
January 1, 2024	Rent due	\$850.00	\$850.00
January 13, 2024	Payment	-\$850.00	\$0.00
February 1, 2024	Rent due	\$850.00	\$850.00
March 1, 2024	Rent due	\$850.00	\$1,700.00
April 1 - 6, 2024	Rent due	\$167.22	\$1,867.22
Late fees		\$75.00	\$1,942.22

Daily rate: \$850 x 12 mths = \$10 200  
\$10 200 / 366 days = \$27.86 per day

## Decision

26. The landlord's claim for rent and late fees succeeds in the amount of \$1942.22.

### **Summary of Decision**

27. The tenant shall pay the landlord a total of **\$1942.22** for rent and late fees.

Rent.....	\$1867.22
Late fees.....	<u>\$ 75.00</u>
Total.....	<b>\$1942.22</b>

May 9, 2024

Date

