

Residential Tenancies Tribunal

Application 2024-0356-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 3-Jun-2024 at 1:57 pm.
2. The applicants, [REDACTED], hereinafter referred to as the landlords, attended via teleconference.
3. The respondent, [REDACTED], hereinafter referred to as the tenant, also attended via teleconference.

Preliminary Matters

4. This application originally included a request for an order of vacant possession. However, as the tenant has already vacated the premises, this portion of the claim was abandoned at the hearing.
5. The tenant acknowledged that she received notice of the hearing on 8-May-2024.

Issues before the Tribunal

6. Should the landlords' claim for unpaid rent and late fees be granted?

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* (the *Act*).

Issue 1: Unpaid Rent and Late Fees

Landlords' Position

8. The landlords claim for unpaid rent for the months of March and April 2024. They seek the full monthly rent of \$700 for March and for pro-rated rent from 1-April-2024 to 20-April-2024, which is when the tenant vacated. They said they received no rent for these months, and a rent ledger (LL#1) was provided in support of this. The rental agreement

(LL#2) was also provided. LL#2 shows that this was a fixed term agreement set to end on 13-June-2024.

Tenant's Position

9. The tenant had a number of issues with the premises. She provided a significant amount of evidence to this effect. Indeed, she shared evidence that showed the premises were deemed uninhabitable (T#1). She says the landlords did not meet their obligations to maintain the premises in an inhabitable state and that she therefore should not have to pay rent.

Analysis

10. When a landlord fails to meet their obligations under the lease agreement, a tenant may file for early termination under s. 23 of the *Act*. Where premises are uninhabitable due to an act or failure to act by the landlord, a tenant may file for early termination under s. 21 of the *Act*. Neither circumstance allows the tenant to remain at the premises without paying rent.
11. The tenant is obliged to pay rent for the length of time she resided at the premises.
12. To determine the pro-rated rent for the month of April, a daily rate must be calculated. The proper formula to determine a daily rate is found by multiplying the monthly rent by the 12 months of the year and dividing the result by the 366 days of the year. In this case, the formula is $\$700/\text{month} \times (12 \text{ months}/366 \text{ days}) = \sim \$23.01/\text{day}$. Multiplying this by the 20 days the tenant remained at the premises in April results in a total of \$460.27.
13. The landlords' claim for unpaid rent succeeds in the amount of \$1160.27.
14. S. 15 of the *Act* enables a landlord to charge fees for the late payment of rent in the amount prescribed by the minister. The minister has set the rate for late fees at \$5 for the first day and \$2 for each day after, to a maximum of \$75. As at the time of the hearing rent was overdue for more than 35 days, the maximum late fees apply.
15. The landlords' claim for late fees succeeds in the amount of \$75.00.

Decision

16. The landlords' claim for unpaid rent succeeds in the amount of \$1160.27.
17. The landlords' claim for late fees succeeds in the amount of \$75.00.
18. As the tenancy has ended, the disposition of the security deposit must be determined. In this case, parties agreed that the security deposit was \$350. As the landlords are owed moneys, they may apply the security deposit against the sum owed.
19. As the landlords were successful in their claim, they are entitled to have their reasonable hearing expenses reimbursed. In this case, their hearing expenses included the \$20 application fee and a \$40 claim for the cost of having a Commissioner of Oaths witness

one or more affidavits. As no receipt was provided for the Commissioner of Oaths, I decline to grant that expense.

Summary of Decision

20. The tenant shall pay to the landlords \$ as follows:

| | |
|---------------------------|------------|
| Unpaid Rent..... | \$1160.27 |
| Late fees..... | \$75.00 |
| Hearing expenses..... | \$20.00 |
| Less Security Deposit.... | (\$350.00) |
| Total..... | \$905.27 |

18-July-2024
Date



Seren Cahill
Residential Tenancies Office