

Residential Tenancies Tribunal

Application 2024-0348-NL

Michael Reddy
Adjudicator

Introduction

1. Hearing was called at 9:05 AM on 10 June 2024 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord", attended. [REDACTED] did not attend the hearing.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant", attended. [REDACTED], hereinafter referred to as "tenant2", did not attend the hearing.

Preliminary Matters

4. The landlord submitted an affidavit of service (LL # 1) indicating on 13 May 2024 the tenants were served via registered mail ([REDACTED]). The tenant did not dispute this service.
5. There is a written monthly agreement which commenced on 21 September 2021 until 1 March 2024 (LL # 2). Rent was set at \$750.00, due on the first of each month. A security deposit of \$550.00 was collected 20 September 2021, and is still in the possession of the landlords.
6. The landlord amended the application seeking \$20.00 hearing expense and was seeking compensation for "other" of \$150.00 rather than \$185.00.
7. In a proceeding under the *Residential Tenancies Act, 2018*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicants must establish that their account of events is more likely than not to have happened.

Issues before the Tribunal

8. The landlords are seeking the following:
 - Rental Arrears in the amount of \$1500.00

- Late fees of \$75.00
- Compensation for inconveniences in the amount \$150.00
- The Security deposit to be used against monies owing
- Hearing expense in the amount \$20.00

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in Section 46 and 47 of the *Residential Tenancies Act, 2018*.
10. Also, relevant and considered in this claim is Sections 15 of the Act, along with Policy 09-005: *Life Expectancy of Property of the Residential Tenancies Program and the Security Deposit Interest Calculator*

Issue 1: Rental Arrears = \$1,500.00

Landlord Position

11. The landlord testified rent was set at \$750.00 due on the first of each month and he was seeking rental arrears owing for January and February 2024. He stated the tenants are both presented on the rental agreement as being tenants of the rental premises and tenant2 vacated the rental premises in March 2024.

Tenant Position

12. The tenant testified that although she was not a tenant at the rental premise, she is identified on the rental agreement. Furthermore, she did not dispute there were rental arrears owing in the amount indicated by the landlord. She did not dispute tenant2 vacated the rental premises by 1 March 2024.

Analysis

13. Non-payment of rent is a violation of the rental agreement. The landlord is seeking rental arrears for January and February 2024 in the amount of \$1,500.00.
14. During the hearing, the tenant testified rent was owing in the identified amount for January and February 2024.

Decision

15. The landlords claim for rental arrears succeeds in the amount of **\$1,500.00**.

Issue 2: Late Fees = \$75.00

16. The landlord offered testimony that the tenants had carried late fees since January 2024. The tenant did not dispute this.

17. Section 15 of the *Residential Tenancies Act*, 2018 offers clear direction regarding fees for failure to pay rent. As noted in section 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*”.
18. 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.*

19. I find that the tenants have owed late payments since January 2024 and the landlords are entitled to the maximum of \$75.00.

Decision

20. The landlords claim for late fees succeeds in the amount of **\$75.00**.

Issue 3: Compensation for Inconveniences

Landlord Position

21. The landlords are seeking compensation in the amount \$150.00. The landlord testified this amount was broken down into \$50.00 being related to having to change the main entry door lock as the tenants never returned the key, as well as \$100.00 for clean-up of the rental premise after tenant2 which resulted in the landlord, his wife and daughter all attending the rental premises for “a half-day” to clean.
22. The landlord testified he did not have the receipt for the new door lock. He did have pictures of the rental premises after tenant2 vacated, but they were not submitted into evidence.

Tenant Position

23. The tenant stated she had the key to the old door lock at the time of the hearing. She did not dispute that personal items were left behind after tenant2 vacated the rental premises.

Analysis

24. The landlords are seeking \$150.00 for inconveniences broken down for costs associated with the purchase of a new lock and for having to clean the rental after tenant2 vacated. While the burden of proof was not established by the landlord as he did not provide a

receipt of the cost of a new lock or pictorial evidence to support his claim that the rental had to be fully cleaned, the tenant did testify she did not return to the key to the main entry way of the rental premises. In addition, the tenant testified there had been personal items left in the rental premises which would have to be disposed of.

25. In relation to the claim for compensation of \$50.00 for a new door lock, locks should be changed between tenancies to protect the landlord from liability and the well-being and safety of new tenants. This would be considered a "cost of doing business". This portion of the landlord's claim fails.
26. The landlord claims \$100.00 for having to clean the rental premises after the tenant vacated. There was no pictorial evidence to support this claim, however the landlord testified himself, his wife and daughter completed "a half-day" cleaning. Furthermore, the tenant did not dispute the need for the rental premises to be cleaned. Policy 09-005: *Life Expectancy of Property of the Residential Tenancies Program* breaks down self labour as equaling minimum wage (\$15.60) per hour + \$8.00 per hour = \$23.60. This portion of the landlords claim succeeds.

Decision

27. Considering the evidence in its totality, I conclude on the balance of probabilities that the tenant is responsible for the cost associated with a need to clean the rental premises in the amount of **\$100.00**.

Issue 4: Security Deposit

28. The landlords are seeking to retain the security deposit of \$550.00. The landlords submitted evidence to support the claim the tenant had paid the security deposit in this amount (LL # 3). The tenant did not dispute this. As the landlords claim for compensation has succeeded, the security deposit, plus applicable interest at the rate prescribed by the *Security Deposit Interest Calculator* shall be applied against the monies owed (\$550.00 + \$2.45) and reveals the landlord shall retain \$552.45.

Decision

29. The landlords shall retain the security deposit of **\$552.45** to be applied to monies owed.

Issue 5: Hearing Expenses

30. The landlords claim \$20.00 hearing expenses. Along with their application, the landlords supplied a hearing receipt (LL # 4).

Analysis

31. As the landlords' claim succeeds, the tenants shall be responsible for the **\$20.00** hearing expenses.

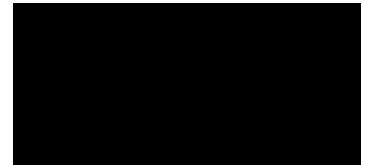
Summary of Decision

32. The landlords are entitled to a payment of **\$1,142.55** as determined as follows:

- Rental Arrears.....\$1,500.00
- Late Fees.....\$75.00
- Inconveniences.....\$100.00
- **Less Security Deposit.....\$552.45**
- Hearing Expense.....\$20.00
- Total.....**\$1,142.55**

27 September 2024

Date



Michael Reddy, Adjudicator
Residential Tenancies Office