

## **Residential Tenancies Tribunal**

[REDACTED] Decision 19-0460-05

Denise O'Brien  
Adjudicator

---

### **Introduction**

1. The hearing was called at 12:00 p.m. on July 9, 2019 at Residential Tenancies, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The landlord, [REDACTED], hereafter referred to as the landlord, participated in the hearing.
3. The tenant, [REDACTED], hereafter referred to as the tenant, participated in the hearing. [REDACTED] represented the tenant at the hearing.

### **Issues before the Tribunal**

4. The landlord is seeking the following:
  - a. Vacant possession of the rental premises;
  - b. Payment of rent in the amount of \$880.00.

### **Legislation and Policy**

5. The jurisdiction of the Director of Residential Tenancies is outlined in the Residential Tenancies Act, 2018 (the Act), Section 47.
6. Also relevant and considered in this case are Sections 19, 34 and 35 of the Act.

### **Issue 1: Payment of rent - \$880.00**

7. In determining an application for the payment of rent, the landlord is required to establish the rental rate and the payment record.

### Landlord Position

8. The landlord stated that the tenant moved into the unit about 7½ years ago. The tenant rented a room at a rate of \$440.00 per month. The rent was due on the 1<sup>st</sup> of each month. The landlord testified that he has not received rent from the tenant since December 2018. He is claiming rent for the months of June and July 2019 as he was awarded rent for the months of January – May 2019 in a hearing that was held in May 2019.

### Tenant Position

9. The tenant testified that he acknowledges that he has not paid the rent since December 2018.

### **Analysis**

10. I have reviewed the testimony and evidence of the landlord and the tenant. I find the tenant acknowledges that he has not paid the rent since December 2018. Rent for the month of July can only be awarded up and including the day of the hearing (July 9, 2019). The rent owing for July 1 – 9, 2019 is \$130.23 (\$440.00 x 12 months = \$5280.00 ÷ 365 days = \$14.47 per day x 9 days = \$130.23). Additionally, the tenant is responsible for rent on a daily basis in the amount of \$14.47 beginning on July 10, 2019 and continuing until the day the landlord obtains vacant possession of the rented premises.

### **Decision**

11. The landlord's claim for rent succeeds as per the following:
  - a. Rent owing for June 2019 ..... \$440.00
  - b. Rent owing for July 1 – 9, 2019..... \$130.23
  - c. Total arrears..... \$570.23
  - d. A daily rate beginning July 10, 2019 ..... \$14.47

### **Issue 2: Vacant Possession of the Rental Premises**

12. An application for vacant possession is determined by the validity of the termination notice issued by the landlord. In this case, the termination notice was issued under Section 19 of the Act where the tenant contravenes the Act by not paying rent.

### Landlord Position

13. The landlord testified a termination notice (Exhibit LL #2) under Section 19 of the *Residential Tenancies Act, 2018*, was served on the tenant on May 31, 2019 to vacate on June 12, 2019. The notice was served because the tenant had not paid the rent since December 2018. To the date of the hearing the tenant still resides in the unit.

### Tenant Position

14. The tenant testified that he received the termination notice.

### **Analysis**

15. Section 19.(1)(b) requires that rent be overdue 5 days or more before a landlord can give a termination notice to vacate the unit not less than 10 days after the notice is served on the tenant. As determined in paragraph 11 above, the rent was in arrears on May 31, 2019 when the termination notice was served. After reviewing the notice I find the notice allowed the required amount of time and contains all of the necessary information to serve on the tenant as per sections 19.(4) and 34 of the Act. The notice was served in accordance with Section 35 of the Act.

### **Decision**

16. The landlord's claim for vacant possession succeeds. The landlord is further awarded costs associated with the enforcement of the Possession Order by the High Sheriff of NL should the landlord require the Sheriff to enforce the Order of Possession.

### **Summary of Decision**

17. The landlord is entitled to the following:

- a) Payment of rent .....\$570.23
- b) Vacant Possession of the rented premises.
- c) A daily rate of rent in the amount of \$14.47 beginning July 10, 2019 and continuing until the day the landlord obtains possession of the rental unit.
- d) Any cost incurred should the landlord be required to have the Sheriff enforce the attached Order of Possession.

July 12, 2019

Date

Residential Tenancies Section