

Residential Tenancies Tribunal

[REDACTED] Decision 19-0526-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 11:20 am on 15 August 2019 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED] and [REDACTED], hereinafter referred to as "landlord1" and "landlord2", respectively, participated in the hearing. The tenants, [REDACTED] and [REDACTED], hereinafter referred to as "the tenants", did not participate

Issues before the Tribunal

3. The landlords are seeking the following:
 - a. An order for payment of rent in the amount of \$3600.00;
 - b. An order for a payment of late fees in the amount of \$75.00; and
 - c. Authorization to retain the security deposit of \$100.00

Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case is sections 15 and 19 of the *Residential Tenancies Act, 2018* and rule 29 of *The Rules of the Supreme Court, 1986*.

Preliminary Matters

6. The tenants were not present or represented at the hearing and I was not able to reach them by telephone from the hearing room. This Tribunal's policies concerning notice requirements and hearing attendance have been adopted from

the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date and, where the respondents fail to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondents' absence so long as they have been properly served. The landlords submitted affidavits with their application showing that the tenants were served, electronically, on 30 July 2019 and they have had 15 days to provide a response. They also submitted copies of those electronic messages as well as copies of previous exchanges that they had had with the tenants at those electronic addresses. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlords, I proceeded with the hearing in their absence.

Issue 1: Rent - \$3600.00

Relevant Submissions

7. Landlord1 stated that they had entered into a monthly rental agreement with the tenants on 16 March 2019 and a copy of the executed agreement was submitted at the hearing (█ #1). The agreed rent was set at \$1200.00 and was to be paid semi-monthly.
8. The tenants fell into rental arrears in May 2019 and on 17 June 2019 the landlords issued them a termination notice. A copy of that notice was submitted with the landlords' application (█ #2). That notice was issued under section 19 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 29 June 2019. The tenants did not vacate until 28 July 2019.
9. With their application, the landlords had submitted a copy of their rent records (█ #3) showing the payments that they had received from the tenants since they had moved in. According to these records, the tenants have paid no rent for May, June or July 2019.
10. The landlords are seeking an order for a payment of rent in the amount of \$3600.00 for those 3 months (\$1200.00 per month x 3 months).

Analysis and Decision

11. I accept the testimony and evidence of the landlord in this matter and I find that the tenants had not paid rent as required. Based on landlord's testimony and based on the submitted rent records, I find that the tenants owe the landlord \$3600.00.

Issue 2: Late fees - \$75.00

Relevant Submissions

12. The landlords have assessed late fees in the amount of \$75.00.

Analysis

13. 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.

14. The minister has prescribed the following fees:

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.

15. As the tenants have been in arrears since May 2019, the landlords are entitled to an award for the maximum fee of \$75.00 set by the minister.

Decision

16. The landlords' claim for late fees succeeds in the amount of \$75.00.

Issue 3: Security Deposit

17. Landlord1 stated that the tenants paid a security deposit of \$100.00, a month after they had moved in, on 18 April 2019. As the landlords' claim has been successful, they shall retain the security deposit as outlined in this decision and order.

Issue 4: Hearing Expenses

18. The landlords paid a \$20.00 fee to file this application. As their claim has been successful, the tenants shall pay that hearing expense.

Summary of Decision

19. The landlords are entitled to the following:

- a) Rent Owing \$3600.00
- b) Late Fees \$75.00
- c) Hearing Expenses \$20.00
- d) LESS: Security Deposit (\$100.00)
- e) Total Owing to Landlord \$3595.00

30 December 2019

Date



John R. Cook
Residential Tenancies Tribunal