

Residential Tenancies Tribunal

[REDACTED] Decision 19-0540-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:20 am on 21 August 2019 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord", participated in the hearing. He was represented at the hearing by [REDACTED] (■).
3. The respondent, [REDACTED], hereinafter referred to as "the tenant", did not participate.

Issues before the Tribunal

4. The landlord is seeking the following:
 - a. An order for a payment of rent in the amount of \$3050.00;
 - b. An order for a payment of late fees in the amount of \$75.00; and
 - c. An order for a payment of \$152.00 for cleaning and garbage removal.

Legislation and Policy

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

Preliminary Matters

7. The tenant was not present or represented at the hearing and I was unable to reach him 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 a respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent's absence so long as he has been properly served. The landlord testified that the tenant was served with notice of the hearing, by text-message, on 18 July 2019 and he has had 33 days to provide a response. A copy of that text-message was also submitted after the hearing and the landlord pointed out that that cellular number was provided by the tenant on the submitted rental agreement (■ #1). As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in his absence.

Issue 1: Rent - \$3050.00

Relevant Submissions

8. The landlord stated that he had entered into a 1-year, fixed-term rental agreement with the tenant on 01 September 2018 and a copy of the executed lease was submitted at the hearing (■ #1). The agreed rent was set at \$750.00 per month.
9. The landlord stated that the tenant fell into rental arrears in February 2019 and on 30 June 2019 he issued him a termination notice. A copy of that notice was submitted at the hearing (■ #2). That notice was issued under section 19 of the *Residential Tenancies Act, 2018* (notice where failure to pay rent) and it had an effective termination date of 05 June 2019. The landlord entered and took possession of the property on 11 June 2019.
10. After he regained possession of the unit the landlord started advertising the apartment for rent and he was able to secure new tenants for 01 July 2019.
11. With his application, the landlord submitted a copy of his rent records (■ #4) showing the payments he had received from the tenant since he had moved in. According to these records, the landlord had received no rent for March, April, May or June 2019 and he also was carrying a balance of \$50.00 from February 2019.
12. The landlord calculates that he is owed \$3050.00 in rent (\$50.00 for February 2019 + \$3000.00 for March, April, May and June 2019).

Analysis and Decision

13. I accept the landlord's claim that the tenant had not paid rent as required and I find that he owes him \$3050.00.

Issue 2: Late fees - \$75.00

Relevant Submissions

14. The landlord has assessed late fees in the amount of \$75.00.

Analysis

15. 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.

16. 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.

17. As the tenant has been in arrears since February 2019, the landlord is entitled to an award for the maximum fee of \$75.00 set by the minister.

Decision

18. The landlord's claim for late fees succeeds in the amount of \$75.00.

Issue 3: Cleaning and Garbage Removal - \$152.00

Relevant Submissions

19. The landlord stated that after he took possession of the property he found that the tenant had left behind some of his personal possessions, including furniture, pots and pans, clothing and a microwave. He stated that he was required to remove these items from the unit and he currently has them in storage.
20. The landlord also complained that there was a significant amount of garbage left at the unit and he also stated that the unit required major cleaning.
21. In support of that claim the landlord submitted photographs (█ #6) showing the condition of the unit after the tenant had moved out. These photographs show that the tenant had left dirty dishes on the stovetop and there were items left in the cupboards. There were cases of empty beer bottles left behind, bags of garbage left throughout the house and the refrigerator had food in it and had not been cleaned out. The photographs also show that the appliances had not been cleaned and the bathroom was dirty as well.
22. The landlord is seeking \$123.50 in compensation for his personal labour (6.5 hours x \$19.00 per hour) and \$31.79 for cleaning supplies. No receipts were submitted at the hearing.

Analysis

23. The landlord's evidence and testimony establishes that the tenant had not cleaned the unit before he vacated. I accept his claim that it would take 6.5 hours to clean and I therefore find that he is entitled to the \$123.50 that he is seeking here in compensation for his personal labour.
24. No receipts were submitted establishing the costs of cleaning supplies and I therefore find that that portion of the landlord's claim does not succeed.

Decision

25. The landlord's claim for compensation for damages succeeds in the amount of \$123.50.

Issue 4: Hearing Expenses

26. The landlord submitted a receipt showing that he had paid a fee of \$20.00 to file this application and the receipt associated with the photographs (█ #6) shows that he paid \$8.70 to have them developed. As the landlord's claim has been successful, the tenant shall pay these hearing expenses.

Summary of Decision

27. The landlord is entitled to the following:

- a) Rent Owing\$3050.00
- b) Late Fees\$75.00
- c) Cleaning\$123.50
- d) Hearing Expenses\$28.70
- e) Total Owing to Landlord\$3277.20

08 January 2020

Date

John R. Cook
Residential Tenancies Tribunal