

Residential Tenancies Tribunal

Decision 19-0726-05

Denise O'Brien
Adjudicator

Introduction

1. The hearing was called at 9:20 a.m. on October 1, 2019 at Residential Tenancies, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicants, [REDACTED], hereafter referred to as landlord1, participated in the hearing. The landlord, [REDACTED], hereafter referred to as landlord2, did not attend the hearing but he was represented by [REDACTED].
3. The respondents, [REDACTED] and [REDACTED], hereafter referred to as tenant1 and tenant2, respectively, participated in the hearing by conference call.

Preliminary Matters

4. The landlord discontinued the claim for vacant possession as the tenants vacated the unit on September 18, 2019. Landlord1 amended the claim for the payment of rent from \$800.00 to \$473.40.
5. The address of the rental unit should read [REDACTED].

Issues before the Tribunal

6. The landlord is seeking the following:
 - a. Payment of rent in the amount of \$473.40;
 - b. Hearing expenses.

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in the Residential Tenancies Act, 2018 (the Act), Section 47.
8. Also relevant and considered in this case are Sections 14 and 19 of the Act and Policy 12-1: *Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF*.

Issue 1: Payment of rent - \$473.40

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

Landlord Position

10. Landlord1 testified that the tenants moved into the unit on May 15, 2019 for a one year term to start on June 1, 2019 with rent set at \$800.00 per month due on the 1st of the month. The tenants paid the pro-rated amount of rent for May by cash. The rent for the months of June, July and August 2019 was paid through e-transfer. A termination notice was served on the tenants on September 7, 2019 to vacate by September 18, 2019 because they had not received the rent for the month of September 2019. The tenants vacated on September 18, 2019. They are seeking rent for the period September 1 – 18, 2019.
11. Landlord1 presented into evidence a copy of their Deposit Account Details at CIBC (LL #1) and a copy of the termination notice (LL #2).

Tenant Position

12. Tenant1 testified that they did not pay the rent for the month of September 2019 and they vacated on September 16, 2019.

Analysis

13. I have reviewed the testimony and evidence of landlord1 and the tenants. I have determined that there is one issue that needs to be addressed; are the tenants responsible for rent. I find that the landlords served a termination notice to vacate on September 18, 2019 because the rent was not paid for the month of September 2019. The tenants acknowledge that they did not pay the rent for September 2019. Further, the landlords are seeking payment up to September 18, 2019, the date of the termination notice. As the tenants

acknowledge they did not pay rent for September 2019 and the termination notice was effective for September 18, 2019, the tenants shall pay the landlords rent for the period September 1 – 18, 2019 in the amount of \$473.40 ($\$800.00 \times 12 \text{ months} - \$9600.00 \div 365 \text{ days} = \$26.30 \text{ per day} \times 18 \text{ days} = \473.40).

Decision

14. The landlords' claim for payment of rent for the period September 1 – 18, 2019 succeeds in the amount of \$473.40.

Issue 2: Application for Security Deposit

15. Under the authority of Section 47.(j) the director may authorize a landlord to offset money a tenant owes to the landlord against money the landlord owes to the tenant. Further under subsection (m), the director has the authority to determine the disposition of the security deposit.

Landlord Position

16. Landlord1 testified a \$400.00 security deposit was paid in May 2019.

Tenant Position

17. The tenants acknowledge they paid a security deposit in the amount of \$400.00.

Analysis

18. A security deposit was paid in May 2019. As the landlords have been successful in their claim for the payment of rent, they shall retain the \$400.00 security deposit as outlined in this decision and order.

Decision

19. The landlords shall retain the security deposit as outlined in this decision and attached order.

Issue 3: Hearing Expenses - \$20.00

20. Under the authority of Section 47.(q) the director may require the unsuccessful party to pay costs to the successful party to an application. Costs eligible to be awarded are identified in *Policy 12-1: Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF*.

Landlord Position

21. The landlords paid an application filing fee in the amount of \$20.00. The landlords are seeking this cost.

Analysis

22. The cost the landlords incurred to make the application is considered a reasonable expense as per *Policy 12-1 Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF*. As the landlords' claim was successful, the tenants are responsible to cover the cost of the hearing expenses in the amount of \$20.00.

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23. The tenants shall pay the landlords' hearing expenses in the amount of \$20.00.

Summary of Decision

24. The landlords are entitled to the following:

a) Payment of rent	\$473.40
b) Hearing expenses.....	\$20.00
c) Less the security deposit	(400.00)
d) Total owing to Landlords	<u>\$93.40</u>

October 16, 2019
Date


Residential Tenancies Section