

Residential Tenancies Tribunal

Decision 19-0758-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 11:20 am on 15 October 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. The respondent, [REDACTED], hereinafter referred to as "the tenant", did not participate

Issues before the Tribunal

3. The landlord is seeking the following:
 - a. An order for a payment of rent in the amount of \$950.00; and
 - b. An order for vacant possession of the rented premises.

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 section 19 of the *Residential Tenancies Act, 2018* and rule 29 of *The Rules of the Supreme Court, 1986*.

Preliminary Matters

6. The tenant was not present or represented at the hearing and I was unable to reach her 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 she has been properly served. The landlord submitted an affidavit with his application stating that the tenant was served, by text-message, on 02 October 2019 and she has had 12 days to provide a response. The landlord also submitted a copy of that text-message, as well as copies of all the other text conversations he had had with her at that number. 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 her absence.

7. The landlord amended his application at the hearing. He stated that she was no longer seeking an order for possession of the rented premises as the tenant moved out on 30 September 2019. He also stated that he was now only seeking \$850.00 in rent.

Issue 1: Rent - \$850.00

Relevant Submissions

8. The landlord stated that he had entered into a 6-month, fixed-term rental agreement with the tenant on 01 May 2019 and a copy of the executed lease was submitted at the hearing (█ #1). The agreed rent was set at \$950.00 and it is acknowledged in the lease that the tenant had paid a security deposit of \$500.00.
9. The landlord stated that the tenant fell into rental arrears in September 2019 and on 09 September 2019 he issued her a termination notice (█ #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 30 September 2019. The tenant vacated on that date.
10. The landlord stated that he had received no rent for September 2019. He testified that he had an agreement with the tenant that rent for that month would be reduced to \$850.00.
11. The landlord also pointed out that he had an agreement with tenant that he could apply the \$500.00 security deposit against the rent that was owing. In support of that claim he submitted a copy of the text-message communications he had had with the tenant during their tenancy (█ #4) and he pointed out that they had reached that agreement on 01 October 2019.
12. Subtracting the security deposit, the landlord is seeking an order for a payment of rent in the amount of \$350.00.

Analysis

13. I accept the landlord's testimony and evidence in this matter and I find that the tenant had not paid rent as required for September 2019.
14. As the landlord had agreed to reduce the rent to \$850.00 for September 2019 and as he had entered into a written agreement with the tenant that he could retain the security deposit, I find that his claim succeeds in the amount of \$350.00

Decision

15. The landlord's claim for a payment of rent succeeds in the amount of \$350.00, as follows:
 - a) Rent Owing\$850.00
 - b) LESS: Security Deposit.....(\$500.00)
 - c) Total Owing to Landlord\$350.00

01 April 2020

Date

[Redacted]
John R. Cook
Residential Tenancies Tribunal