

Residential Tenancies Tribunal

Decision 19-0805-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 am on 18 November 2019 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant", participated in the hearing. The respondent, [REDACTED], hereinafter referred to as "the landlord" also participated.

Issues before the Tribunal

3. The tenant is seeking an order for a refund of the security deposit in the amount of \$500.00.
4. The landlord is seeking an order for a payment of rent in the amount of \$1050.00, compensation for damages in the amount of \$267.47 and authorization to retain the security deposit.

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 are sections 7, 15 and 18 of the *Residential Tenancies Act, 2018* and policy 9-3: Claims for Damage to Rental Premises.

Preliminary Matters

7. The landlord amended her application at the hearing and stated that she was now only seeking \$167.47 in compensation for damages.

Issue 1: Rent - \$1050.00

Relevant Submissions

The Landlord's Position

8. The landlord and tenant entered into a monthly rental agreement on 01 March 2019 and a copy of that executed agreement was submitted at the hearing (■ #1). The agreed rent was set at \$1050.00 per month and it is acknowledged in the agreement that the tenant had paid a security deposit of \$500.00.
9. On 01 August 2019 the landlord issued the tenant a termination notice. This notice was a standard, 3-month notice and it had an effective termination date of 31 October 2019. On 08 September 2019, the tenant gave the landlord notice that she was moving on 30 September 2019. She vacated on that date.
10. The landlord argued that the tenant was required to give her a full, 1-month notice that she was terminating their agreement and she pointed out that a notice issued on 08 September 2019 was not adequate.
11. The landlord testified that she started advertising the unit for rent on Facebook Marketplace on 12 September 2019. To the date of the hearing, the landlord has not been able to find new tenants.
12. The landlord is seeking rent in lieu of a proper termination notice for October 2019 in the amount of \$1050.00.

The Tenant's Position

13. The tenant acknowledged that she had only given the landlord a 22-day notice. She claimed that by that point she could no longer tolerate living under the same roof with the landlord and she had to terminate her agreement early.
14. The tenant also corroborated the landlord's claim that she had been advertising the unit for rent, but she pointed out that the landlord did not advertise on Kijiji.

Analysis

15. I agree with the landlord in this matter and I find that she is entitled to a payment of \$1050.00 in compensation for the loss of rental income she suffered during October 2019.

16. Section 18 of the *Residential Tenancies Act, 2018* states that where a tenant wishes to terminate a monthly tenancy, she is required to provide the landlord with at least a 1-month notice. On 08 September 2019, the earliest date the tenant could have specified in such a notice would have been 31 October 2019.
17. Where a tenant vacates rented premises without properly terminating her agreement, she is considered to have abandoned the premises and she is liable for any damages caused as a result of that abandonment, including any loss of rental income suffered by the landlord.
18. However, a landlord has a legal obligation to mitigate that loss of income by taking all reasonable steps to put new tenants in place as quickly as possible so she can start collecting rent again.
19. I accept the landlord's claim that she had started advertising the unit on 12 September 2019 and that despite her attempts, she was unable to secure new tenants for October 2019 and she suffered a loss of rent during that month.
20. As such, the landlord's claim succeeds

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21. The landlord's claim for a payment of rent succeeds in the amount of \$1050.00.

Issue 2: Compensation for Damages - \$167.47

Relevant Submissions

The Landlord's Position

22. The landlord stated that after the tenant vacated on 30 September 2019 she discovered that there were some items that needed addressing and she submitted the following breakdown of the costs she had incurred (■ #1):

• Copy of <i>Residential Tenancies Act</i>	\$6.04
• Cleaning	\$120.00
• Replace garage bucket.....	\$11.43
• Clean up dog debris	\$10.00
• Application fee	\$20.00

Total..... **\$167.47**

23. The landlord testified that she had informed the tenant that she wanted her to return to her the copy of the *Residential Tenancies Act* she had supplied to her when she moved in. The landlord stated that the tenant did not return that copy

to her and she had to purchase a new one. She submitted a receipt at the hearing (■ #2) showing that she was charged \$6.04 for a replacement.

24. Regarding the cleaning, the landlord stated that she had to clean the refrigerator and stove, she had to clean the area behind the refrigerator, she was required to wash the drapery, clean the windows and wash down all the cupboards. No photographs were submitted at the hearing. The landlord is seeking \$120.00 in compensation for 6 hours of her personal labour.
25. The landlord also stated that she had provided the tenant with a garbage bucket when she moved in and she claimed that after she vacated, she found that that bucket was dirty and she was unable to get it clean. She replaced that bucket and she submitted a receipt at the hearing (■ #3) showing that she was charged \$11.43. No photographs were submitted at the hearing.
26. The landlord stated that the tenant was allowed to keep a pet dog at the unit on a part-time basis. She claimed that on 01 October 2019 she discovered some dog feces outside of the door to the tenant's rental unit. She paid someone \$10.00 to remove it. No photographs or receipts were submitted at the hearing.

The Tenant's Position

27. Regarding the copy of the *Tenancies Act*, the tenant had brought that copy to the hearing and attempted to return it to the landlord.
28. With respect to the cleaning, the tenant stated that during her tenancy she cleaned the unit every Saturday and she testified that she did not believe that the unit required any deep cleaning after she vacated.
29. The tenant stated that the garbage bucket was not damaged when she vacated and she argued that it did not need to be replaced.
30. Regarding the feces, the tenant stated that she did not believe that her dog was responsible.

Analysis

31. With respect to the copy of the *Residential Tenancies Act* that the landlord had supplied to the tenant, I find that she is not entitled to compensation for her failure to return it. The landlord is required, under section 7 of the *Residential Tenancies Act, 2018*, to provide the tenant with a copy of that Act, at no cost, when the tenancy begins. The relevant subsections of section 7 state:

Provision of rental agreement and information

7. (1) At the time a landlord and tenant enter into a rental agreement, the landlord shall provide the tenant with a copy of this Act and the

regulations, and where requested by the landlord, the tenant shall sign an acknowledgement of receipt.

(11) The information provided by the landlord to the tenant in this section shall be provided without cost to the tenant.

32. With respect to the other costs the landlord is seeking here, the burden of proof lies with her to establish, on the balance of probabilities, that the unit required cleaning, that the garbage bucket had to be replaced and that there was feces belonging to the tenant's dog left outside the unit. I find that the landlord has not met her burden. Her testimony was contested by the tenant and there was no other supporting evidence (e.g., photographs) to corroborate her claim. As such, those claims fail.
33. The landlord did pay a fee of \$20.00 to file this application. As the landlord's claim for rent has succeeded, the tenant shall pay that hearing expense.

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34. The landlord's claim for hearing expenses succeeds in the amount of \$20.00.

Issue 3: Security Deposit

35. The tenant paid a security deposit of \$500.00 on 01 March 2019 and receipt of that deposit is acknowledged in the submitted rental agreement. As the landlord's claim for rent has succeeded, she shall retain that deposit as outlined in this decision and attached order.

Summary of Decision

36. The landlord is entitled to the following:

- a) Rent..... \$1050.00
- b) Hearing Expenses \$20.00
- c) LESS: Security Deposit (\$500.00)

Total Owing to Landlord **\$570.00**

08 April 2020

Date

John R. Cook
Residential Tenancies Tribunal