

Residential Tenancies Tribunal

Decision 19-003-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 am on 18 February 2019 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as "landlord1" and "landlord2", respectively, participated in the hearing. The tenant, [REDACTED], hereinafter referred to as "the tenant", did not participate.

Issues before the Tribunal

3. The landlords are seeking the following:
 - a. A payment of rent in the amount of \$1200.00;
 - b. Authorization to retain the \$250.00 security deposit.

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 are sections 10, 18 and 31 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) a respondent to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date and, where the 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 landlords submitted an affidavit with their application showing that the tenant was served with notice of the hearing on 03 January 2019 and she has had 44 days to provide a response. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlords, I proceeded with the hearing in her absence.

Issue 1: Rent - \$1200.00

Relevant Submissions

The Landlords' Position

7. Landlord1 stated that they had entered into a monthly rental agreement with the tenant on 01 September 2018. The agreed rent was set at \$1200.00 per month.
8. On 08 November 2018 the tenant sent a text-message to the landlords informing them that she was terminating her rental agreement and she vacated the rental unit on 30 November 2018.
9. Landlord1 stated that she has been unable to secure new tenants since the tenant moved out and she testified that she had been advertising the unit on Kijiji and Facebook.
10. The landlords are seeking an order for a payment of \$1200.00 in compensation for the loss of rental income they suffered during the month of December 2018 as the tenant had not given them a proper, 1-month notice that she was terminating their agreement.

Analysis

11. Section 18.1(b) of the *Residential Tenancies Act, 2018* states:

Notice of termination of rental agreement

18. (1) A tenant shall give the landlord notice that the rental agreement is terminated and the tenant intends to vacate the residential premises

...

(b) not less than one month before the end of a rental period where the residential premises is rented from month to month; and

12. I agree with the landlords that the text-message the tenant had sent to the landlord on 08 November 2018 was invalid insofar as it did not meet the 1-month notice requirement set out in this section of the *Act*. According to this section of the *Act*, on 08 November 2018 the earliest the tenant could have terminated her rental agreement was 31 December 2018.
13. According to section 31.(2) of the *Act*, as the tenant had vacated the rental unit without first giving a proper notice of termination she is considered to have abandoned the rental unit. I accept landlord1's testimony that they attempted to mitigate their damages by advertising the rental unit and that they have, as yet, been unable to secure new tenants.
14. As the tenant had not given the landlords proper notice that she was vacating the rental unit and as the landlords suffered a loss of rental income for December 2018 because they had not been given adequate notice, I find that their claim succeeds.

Decision

15. The landlords' claim for compensation for lost rental income succeeds in the amount of \$1200.00.

Issue 2: Hearing Expenses

16. The landlords paid a filing fee of \$20.00 to file this application. As the landlords' claim has been successful, the tenant shall pay this hearing expense.

Issue 3: Security Deposit

17. Landlord1 stated that although she required that the tenant pay a security deposit of \$600.00 she only received a total payment of \$250.00 sometime in late October 2018. As the landlords' claim has been successful, they shall retain the security deposit as outlined in this decision and order.

Summary of Decision

18. The landlords are entitled to the following:

- a) Rent Owing\$1200.00
- b) Hearing Expenses.....\$20.00
- c) LESS: Security Deposit.....(\$250.00)
- d) Total Owing to Landlord\$970.00

14 March 2019

Date

John R. Cook
Residential Tenancies Tribunal
