

Residential Tenancies Tribunal

[REDACTED] Decision 19-0011-01

Michael Greene
Adjudicator

Introduction

1. The hearing was called at 10:45 am on 03 April 2019 at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador.
2. The applicant, [REDACTED], hereafter referred to as the landlord, participated in the hearing. The landlord was represented by [REDACTED]. [REDACTED]. (Affirmed)
3. The respondent, [REDACTED], hereafter referred to as tenant1, did not participate in the hearing.
4. The respondent, [REDACTED], hereafter referred to as tenant2, did not participate in the hearing.
5. The details of the claim were presented as a written monthly rental agreement with rent set at \$632.00 per month and due on the 1st of each month. There was no security deposit collected on the tenancy. The landlord issued a termination notice dated 12 December 2018 for the intended termination date of 01 February 2019 under Section 18 of the *Residential Tenancies Act, 2000*.
6. In a proceeding under the *Residential Tenancies Act, 2018*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

Preliminary Matters

7. The tenants, [REDACTED], were not present or represented at the hearing. The Tribunal's policies concerning notice requirements and hearing attendance has been adopted from the *Rules of the Supreme Court, 1986*.
 - a. Rule 29.05(2)(a) states *a respondent to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date* and, 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 he/she has been properly served*.

The affidavit submitted by the landlord shows that tenant1 & tenant2 were served with the notice of this hearing on the **13 March 2019** by serving the documents to the tenants personally at the offices of the landlord ([REDACTED] [REDACTED]). The tenants have had **20 days** to provide a response.

Phone contact was attempted to the tenants prior to the hearing with the following results:

[REDACTED]: **No Answer, message left for the tenants to call the conference line.**

As the tenants were properly served in accordance with the *Residential Tenancies Act, 2018*, with the application for dispute resolution, and as any further delay in these proceedings would unfairly disadvantage the landlord applicant, I proceeded with the hearing in the tenants' absence.

8. The landlord amended the claim to remove the request for vacant possession as the tenants vacated on or about 13 March 2019.
9. The landlord amended the claim at the onset to increase the amount being claimed to **\$5305.64** reflecting rent that has come due and adjustments made as a result of the tenants vacating the property.

Issues before the Tribunal

10. The landlord is seeking the following:
 - a) Payment of rent owing **\$5305.64**
 - b) Hearing expenses

Legislation and Policy

11. The jurisdiction of the Director of Residential Tenancies is outlined in the *Residential Tenancies Act, 2018 (the Act)*, Section 47.
12. Also relevant and considered in this case are Sections 19, 34 and 35 of *the Act*, and Policy 12-1: *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*.

Issue 1: Rent Owing - \$5305.64

Relevant Submissions

Landlord Position

13. The landlord stated that the parties entered into a written rental agreement with the tenants, commencing 10 November 2016. The agreed rent was set at \$632.00 per month and due on the 1st day of each month with no security deposit collected on this tenancy. The landlord issued a termination notice (**Exhibit L # 3**) on 12 December 2018 for the intended date of 01 February 2019. The landlord stated as of the hearing date 03 April 2019 rent remains outstanding.

Analysis

14. I have reviewed the testimony and evidence of the landlord in this matter. As far as I can see, there is one issue here that needs to be addressed: (i) is the rent that is being claimed by the landlord actually owed by the tenants.
15. With respect to the arrears being claimed, I agree with the landlord that rent is owed. Rent is required to be paid by the tenants for use and occupation of the rented premises as set out in the rental agreement established when the tenancy began. Records are clear that rent is owing up to and including 28 February 2019 in the amount of **\$5047.65**. Rent for March 2019 can only be awarded up to and including the date the tenants vacated (13 March 2019) calculated as (**$\$632.00 \times 12 \text{ months} = \$7584.00 \div 365 \text{ days} = \$20.78 \text{ per day} \times 13 \text{ days} = \270.14**). Rent for March 1 – 13, 2019 then is **\$270.14**.

Decision

16. The landlord's total claim for rent succeeds as follows:

- a) Rent owing up to 28 February 2019 \$5047.65
- b) Rent owing for March 1 - 13, 2019 270.14
- c) Total Arrears **\$5317.79**

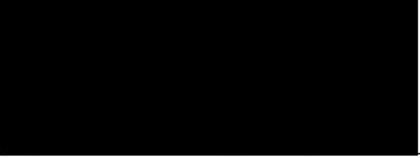
Summary of Decision

17. The landlord is entitled to the following:

- a) Rent Owing (up to and including 13 March 2019) \$5317.79
- b) Total owing to Landlord \$5317.79**

20 June 2019

Date


Michael Greene
Residential Tenancies Tribunal