

Residential Tenancies Tribunal

Decision 19-0017-02

Michael Greene
Adjudicator

Introduction

1. The hearing was called at 11:00 am on 21 October 2019 at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador via Bell Teleconferencing System.
2. The landlord, [REDACTED], hereafter referred to as the landlord, participated in the hearing (*Affirmed*).
3. The tenant, [REDACTED], hereafter referred to as tenant, did not participate in the hearing.
4. The details of the claim were presented as a verbal monthly rental agreement with rent set at \$575.00 per month and due on the 1st of each month. It was stated that no security deposit was collected on this tenancy. The landlord testified that the tenant texted a termination notice (not in a form prescribed by the Minister) to her on or about 17 May 2019 for a termination date of 24 May 2019 under no particular section of the *Residential Tenancies Act, 2018*.
5. 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

6. The tenant, [REDACTED], was 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 the tenant was served with the notice of the original hearing on the **16 July 2019** by serving the documents to the tenant via registered mail ([REDACTED]) to the address General Delivery, [REDACTED]. The document was delivered on 19 July 2019 as per Canada Post.

The tenant had **20 days** to provide a response.

As a result of the unavailability of an adjudicator, the originally scheduled hearing was re-scheduled to 21 October 2019. A notice of re-scheduled hearing was sent from this office 12 September 2019 and determined served on 17 September 2019 which is in time for the re-scheduled hearing.

7. As the tenant was properly served with the application for dispute resolution, and as any further delay in these proceedings would unfairly disadvantage the landlord applicant, I proceeded in the tenant's absence.

Issues before the Tribunal

8. The landlord is seeking the following:
 - a) Payment of rent owing **\$575.00**;
 - b) Hearing expenses.

Legislation and Policy

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

Issue 1: Rent Owing - \$575.00

Relevant Submissions

Landlord Position

11. The landlord stated that she had entered into a verbal monthly rental agreement with the tenant, commencing 05 March 2019. The agreed rent was set at \$575.00 per month and due on the 1st day of each month. There was no security deposit collected on this tenancy. The tenant issued a termination notice via text on 17 May 2019 to terminate on 24 May 2019. The landlord stated that the tenant vacated on 24 May 2019. The landlord testified that she is seeking rent for the month of May 2019 as the tenant failed to make a rental payment. The landlord submitted into evidence a rental ledger (**Exhibits L # 1**) along with a copy of the text notification that the tenant was moving (**Exhibit L # 2**). The landlord stated that rent was set at \$575.00 and no payments were received for May 2019.

Analysis

12. 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 tenant.
13. With respect to the amount being claimed, I agree with the landlord that rent is owed. Rent is required to be paid by the tenant 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 was not paid for May 2019 and the termination notice submitted by the tenant does not meet the standard as outlined by the *Residential Tenancies Act, 2018*.

14. I find that based on the evidence provided, the tenant owes rent in the amount of \$575.00 covering the period up to 31 May 2019.

Decision

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

- a) Rent owing up to 31 May 2019..... \$575.00
- b) Total Arrears **\$575.00**

Issue 2: Hearing Expenses

Landlord Position

16. The landlord paid a fee in the amount of \$20.00 as an application filing fee and presented a receipt from Service NL [REDACTED] (**Exhibit L # 5**). The landlord further paid a fee in the amount of \$16.55 for the service of documents by registered mail (**Exhibit L # 4**). The landlord is seeking these costs.

Analysis

17. I have reviewed the testimony and evidence of the landlord in this matter. The expenses incurred by the landlord are considered a reasonable expense and are provided for with in Policy 12-1 *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*. As such, I find the tenant is responsible to cover these reasonable expenses.

Decision

18. The tenant shall pay the reasonable expenses of the landlord in the amount of \$36.55.

Summary of Decision

19. The landlord is entitled to the following:

a)	Rent Owing (up to and including 31 May 2019)	\$575.00
b)	Hearing Expenses	<u>\$36.55</u>
c)	Total owing to Landlord	<u>\$611.55</u>

17 February 2020

Date


Michael Greene
Residential Tenancies Tribunal