

Residential Tenancies Tribunal

[REDACTED] Decision 19-0029-01

Michael Greene
Adjudicator

Introduction

1. The hearing was called at 1:45 pm on 08 May 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. (*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 \$750.00 per month and due on the 1st of each month. There was no security deposit collected on the tenancy. There was no indication of a termination notice issued on the tenancy.
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 **26 April 2019** by serving the documents to the tenants personally at the address of [REDACTED] [REDACTED]. The tenants have had **11 days** to provide a response.

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

[REDACTED] ***Number not in service.***

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.

Issues before the Tribunal

8. The landlord is seeking the following:
 - a) Payment of rent owing **\$2100.00**
 - 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 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 - \$2100.00

Relevant Submissions

Landlord Position

11. The landlord stated that the parties entered into a written rental agreement with the tenants, commencing approximately 8 – 9 years ago. The landlord stated that he purchased the property on or about 2011. The agreed rent was set at \$750.00 per month and due on the 1st day of each month with no security deposit collected on this tenancy. There was no termination notice presented as being issued on this matter. The landlord stated as of the hearing date 08 May 2019 rent remains outstanding.
12. The landlord presented rental records (**Exhibit L # 2**) to establish the rent outstanding along with a copy of the rental agreement (**Exhibit L # 1**).

Table # 1: Rental Records

Date	Comment	Due	Payment	Balance
	Bal. Forward from 31 Aug 2018	\$ -	\$ -	(\$800.00)
1-Sep-17	Rent Due	\$ 800.00		(\$1,600.00)
7-Sep-17	Rent Payment		\$ 800.00	(\$800.00)
1-Oct-17	Rent Due	\$ 800.00		(\$1,600.00)
1-Nov-17	Rent Due	\$ 800.00		(\$2,400.00)
3-Nov-17	Rent Payment		\$ 800.00	(\$1,600.00)
15-Nov-17	Rent Payment		\$ 800.00	(\$800.00)
1-Dec-17	Rent Due	\$ 800.00		(\$1,600.00)
1-Dec-17	Rent Payment		\$ 800.00	(\$800.00)
1-Jan-18	Rent Due	\$ 750.00		(\$1,550.00)
31-Jan-18	Rent Payment		\$ 750.00	(\$800.00)
1-Feb-18	Rent Due	\$ 750.00		(\$1,550.00)
1-Mar-18	Rent Due	\$ 750.00		(\$2,300.00)
1-Apr-18	Rent Due	\$ 750.00		(\$3,050.00)
9-Apr-18	Rent Payment		\$ 750.00	(\$2,300.00)
1-May-18	Rent Due	\$ 750.00		(\$3,050.00)
22-May-18	Rent Payment		\$ 750.00	(\$2,300.00)
1-Jun-18	Rent Due	\$ 750.00		(\$3,050.00)
4-Jun-18	Rent Payment		\$ 700.00	(\$2,350.00)

Analysis

13. 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.
14. 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 31 May 2018 in the amount of **\$2300.00**. Rent for June 2018 can only be awarded up to and including the date the tenants vacated (15 June 2018) calculated as **$(\$750.00 \times 12 \text{ months} = \$9000.00 \div 365 \text{ days} = \$24.66 \text{ per day} \times 15 \text{ days} = \$369.90)$** . Rent for June 1 – 15, 2018 then is **\$369.90**.

Decision

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

a) Rent owing up to 31 May 2018.....	\$2300.00
b) Rent owing for June 1 - 15, 2018	369.90
c) Sub-total.....	\$2669.90
d) LESS: Tenant Payment (04 June 2018)	<u>(\$700.00)</u>
e) Total Arrears	<u>\$1969.90</u>

Issue 3: 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 # 4). The landlord is seeking this cost.

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 \$20.00.

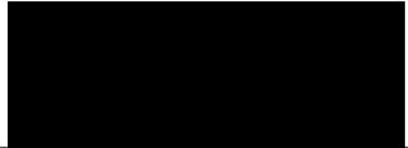
Summary of Decision

19. The landlord is entitled to the following:

a)	Rent Owing (up to and including 13 March 2019).....	\$1969.90
b)	Hearing Expenses	<u>20.00</u>
b)	Total owing to Landlord	\$1989.90

26 June 2019

Date


Michael Greene
Residential Tenancies Tribunal