

Residential Tenancies Tribunal

[REDACTED] Decision 19-082-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:20 am on 04 March 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 respondent, [REDACTED], hereinafter referred to as "the tenant", did not participate

Issues before the Tribunal

3. The landlords are seeking the following:
 - a. An order for a payment of rent in the amount of \$1425.00;
 - b. Authorization to retain the \$425.00 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 is section 18 of the *Residential Tenancies Act, 2000* 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 stating that the tenant was personally served with notice of the hearing on 06 February 2019 and she has had 25 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 - \$1425.00

Relevant Submissions

The Landlords' Position

7. Landlord1 stated that they had entered into a 1-year, fixed-term lease with the tenant on 20 July 2018 and a copy of that lease was submitted at the hearing (AO #1). The agreed rent was set at \$950.00 per month and the tenant paid a security deposit of \$425.00.
8. On 17 November 2018 the landlords issued the tenant a termination notice under section 18 of the *Residential Tenancies Act, 2000* (notice where failure to pay rent) and a copy of that notice was submitted at the hearing (AO #2). The tenant vacated the rental unit on 28 November 2018.
9. Landlord1 stated that after the tenant moved out they were able to put new tenants in the unit on 15 December 2018. These new tenants paid a pro-rated rent of \$488.00 for December 2018.
10. Landlord1 testified that the tenant's rent was paid and up-to-date for the period ending 31 October 2018 but she claimed that this was all the rent she had received. In support of that claim, a copy of the text-messages that landlord1 had exchanged with the tenant were submitted at the hearing (AO #3). In these messages, the tenant admits that she is unable to pay rent for November 2018.
11. The landlords are seeking an order for a payment of rent in the amount of \$950.00 for November 2018 as well as a payment of \$475.00 representing a half month's rent for December 2018.

Analysis

12. I accept landlord1's testimony that the tenant had not paid rent as required and that no rent was paid for November 2018. I find that the landlords are entitled to a payment of \$950.00 for that month.
13. I also agree with the landlords that they are entitled to some rent for December 2018 as they weren't able to secure new tenants until 15 December 2018. As

the landlords had already received \$488.00 from their new tenants for December 2018, I find that the tenant owes them an additional \$462.00 in compensation for the loss of rental income they suffered during that month (\$950.00 - \$488.00).

Decision

14. The landlords' claim for a payment of rent succeeds in the amount of \$1412.00 (\$950.00 + \$462.00).

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 the tenant paid a security deposit of \$425.00 on 15 July 2018 and receipt of that deposit is acknowledged in the submitted lease. 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\$1412.00
- b) Hearing Expenses.....\$20.00
- c) LESS: Security Deposit..... (\$425.00)
- d) Total Owing to Landlord\$1007.00

02 April 2019

Date

John R. Cook
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