

Residential Tenancies Tribunal

Application 2024-0064-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 4-September-2024 at 9:15 am.
2. The applicant, [REDACTED], hereinafter referred to as the landlord, attended via teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as the tenants, did not attend.

Preliminary Matters

4. The tenants were not present or represented at the hearing and I was unable to reach them by telephone at the start of the hearing. 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) respondents 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 they have been properly served. The landlord provided an affidavit of service (LL#1) stating that he served the tenants personally on 22-August-2024 at approximately 11:11 am. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.

Issues before the Tribunal

5. Should the landlord's claim for unpaid rent succeed?
6. Should the landlord's claim for an order of vacant possession succeed?

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018* (the *Act*).

8. Also considered and referred to in this decision are sections 19(1), 19(4), and 34 of the *Act*, as reproduced here:

Notice where failure to pay rent

19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),

(a) where the residential premises is rented from week to week and the amount of rent payable by a tenant is overdue for 3 days or more, the landlord may give the tenant notice that the rental agreement is terminated and that the tenant is required to vacate the residential premises on a specified date not less than 3 days after the notice is served on the tenant; and

(b) where the residential premises is

(i) rented from month to month,

(ii) rented for a fixed term, or

(iii) a site for a mobile home, and

the amount of rent payable by a tenant is overdue for 5 days or more, the landlord may give the tenant notice that the rental agreement is terminated and that the tenant is required to vacate the residential premises on a specified date not less than 10 days after the notice is served on the tenant.

(4) In addition to the requirements under section 34, a notice under this section shall

(a) be signed by the landlord;

(b) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and

(c) be served in accordance with section 35.

Requirements for notices

34. A notice under this Act shall

(a) be in writing in the form prescribed by the minister;

(b) contain the name and address of the recipient;

(c) identify the residential premises for which the notice is given; and

(d) state the section of this Act under which the notice is given.

Issue 1: Unpaid Rent

9. The landlord testified that the tenants owe upwards of \$5600.00 in unpaid rent, representing the full monthly rent of \$800.00 a month for 7 months for the months of August 2022 to February 2023. A rental ledger (LL#2) was provided in support of this.

The landlord testified that at some time during this time the rent was raised to \$1000.00 per month, but he could not remember when.

10. I accept the landlord's uncontradicted testimony. The landlord's claim for unpaid rent succeeds in the amount of \$5600.00.

Issue 2: Vacant Possession

11. To receive an order of vacant possession, a landlord must have submitted a valid termination notice. To be valid, a termination notice must comply with all relevant sections of the *Act*. The landlord submitted a copy of a termination notice labeled LL#3.
12. LL#3 is a termination notice in writing in the form prescribed by the minister. It contains the name and address of the recipient. It identifies the residential premises for which it is given. It specifies that it was issued under s. 19 of the *Act*. It therefore complies with s. 34 of the *Act*.
13. LL#3 was signed by the landlord. It does not state the date on which the tenants are to vacate the premises, the "move out date" section of the form has been left blank. It therefore does not comply with s. 19(4) of the *Act*.
14. LL#3 is invalid as it does not comply with the relevant provisions of the *Act*. The landlord's claim for an order of vacant possession must therefore fail.

Decision

15. The tenants shall pay to the landlord \$5600.00 in unpaid rent.
16. The landlord's claim for an order of vacant possession fails.

Summary of Decision

17. The tenants shall pay to the landlord \$5600.00 in unpaid rent.

15-November-2024

Date


Seren Cahill
Residential Tenancies Office