

Residential Tenancies Tribunal

Application 2024-0832-NL & 2024-0946-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:03 a.m. on 19-November-2024.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant", attended by teleconference.
3. The respondent and counter applicant, [REDACTED], represented by [REDACTED] and [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.

Preliminary Matters

4. The tenant submitted an affidavit with her application stating that she had served the landlord with the notice of hearing electronically by email to: [REDACTED] on 23-October-2024 (TT#1). The landlord's representative confirmed receipt of the document on that date. The landlord submitted a counter application and submitted an affidavit with their application stating that they had served the tenant with the notice of hearing via prepaid registered mail ([REDACTED]) earlier on 17-October-2024 (LL#1). The tenant confirmed receipt of the document on 25-October. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There is a written month-to-month rental agreement which commenced on 1-December-2009. Rent is \$1015.00 per month, due on the 1st day of each month. A security deposit of \$525.00 was paid on 3-December-2009 and is in the landlord's possession.

Issues before the Tribunal

6. The tenant is seeking:
 - Validity of the termination notice
 - Hearing expenses \$20.00
7. The landlord is seeking:
 - An order for vacant possession of the rented premises
 - Hearing expenses \$36.00

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
9. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 18: Notice of termination of rental agreement. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy Manual*: Section 12-1: Recovery of costs.

Issue # 1: Validity of the Termination Notice Vacant Possession of the Rented Premises

Relevant Submission

10. The landlord submitted a copy of a termination notice issued to the tenant on 30-July-2024 under Section 18: *Notice of termination of rental agreement* to vacate the premises on 31-October-2024 (LL#2). The landlord testified that the termination notice was posted to the tenant's door on 30-July and the tenant confirmed receipt of the notice later that day.

Landlord's Position

11. The landlord did not have a position as they terminated the rental agreement under the authority of the *Residential Tenancies Act, 2018*.

Tenant's Position

12. The tenant did not dispute that the termination notice was a valid notice with regards to the timeframe that she was given to vacate; however, the tenant disputed that the landlord had a legitimate reason to give her a termination notice, and she stated that the notice was given out of retaliation, and she feels discriminated against. The tenant testified that she made complaints to the landlord regarding on-going incidents with other tenants in the unit, some of which involved *Police* presence and she stated that she also made complaints about the maintenance staff who bullied her from time to time. The tenant testified that the landlord retaliated against her for making those complaints and gave her a termination notice on 30-July to vacate the unit on 31-October. The tenant also testified that the landlord's representative made some unnecessary and inappropriate remarks to her ranging from comments on her appearance to comments about her praying and asked if she had a mental illness. The tenant testified that the landlord's representative told her that she was brought to [REDACTED] specifically to get rid of her. The tenant submitted a copy of an email from her sent to another representative of the landlord to support the claim (exhibit 4, page 16).
13. The tenant also made reference to the fact that she is a long-term tenant who has resided at the premises for 15 years and she stated that she is a good tenant who pays her rent on time, cleans the laundry room and passes every inspection. The tenant also stated that she is under medical care and her caregiver is concerned for her mental health if evicted with no place to go to. The tenant stated that the eviction is a bad faith eviction that will leave her homeless just to put another tenant in the unit.

14. The tenant also questioned if the landlord's application was legitimate due to the company name changes over the years and she questioned the legitimacy of the service documents as one page was possibly missing.

Analysis

15. The notice was served under Section 18 of the *Residential Tenancies Act, 2018* which states:

Notice of termination of rental agreement

18. (2) A landlord shall give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises

- (a) *not less than 4 weeks before the end of a rental period where the residential premises is rented from week to week;*
- (b) ***not less than 3 months before the end of a rental period where the residential premises is rented from month to month; and***
- (c) *not less than 3 months before the end of the term where the residential premises is rented for a fixed term.*

.....

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

- (a) *be signed by the person providing the notice;*
- (b) *be given not later than the first day of a rental period;*
- (c) *state the date, which shall be the last day of a rental period, on which the rental agreement terminates and the tenant intends to vacate the residential premises or the date by which the tenant is required to vacate the residential premises; and*
- (d) *be served in accordance with section 35.*

16. Section 29 of the *Residential Tenancies Act, 2018* states:

Termination for Invalid Purpose

29.(1) A landlord shall not

- (a) *terminate or give notice to terminate a rental agreement; or*
- (b) *directly or indirectly coerce, threaten, intimidate or harass a tenant or a member of a tenant's family,*

in retaliation for, or for the purpose of deterring the tenant from, making or intervening in a complaint or application in relation to a residential premises.

(2) Where a tenant who is served with a notice of termination of a rental agreement believes that the landlord has contravened subsection (1), he or she may, not later than one month after receiving the notice, apply to the director under section 42 for an order declaring that the rental agreement is not terminated.

17. I asked the tenant to elaborate on the complaints that she made to the landlord regarding other tenants and staff of [REDACTED] and the tenant stated that she made a

complaint on the 16-January-2019, 31-December-2019, and most recently on the 13-December-2023 (Exhibit 10, pages 38-39) and she stated that the termination notice was given on the heels of the most recent complaint (exhibit 8, page 30). Based on the exhibits entered into evidence and the dates that the tenant made complaints to the landlord, I find that it is unreasonable to accept that the landlord's termination notice in July 2024 was issued out of retaliation. I asked the tenant if she had dates as to when the landlord's representative made inappropriate remarks to her, and she responded that it happened one time around the first week of August 2024.

18. I asked the landlord's representative if she wanted to respond to the allegations made by the tenant and she stated that she would never say such things about or to another person. The landlord's representative stated that she feels betrayed. I accept that the tenant made complaints to the landlord about other tenants in the unit and about the maintenance staff, however those incidents happened in 2019 and 2023. I also accept the landlord's representative's testimony that she never made inappropriate remarks to the tenant.
19. In accordance with Section 29 of the *Act* as stated above, I find that the tenant failed to show that the landlord coerced, threatened, intimidated or harassed her in retaliation for making complaints and for that reason, I find that the termination notice was not given out of retaliation. I understand why the tenant is seeking a legitimate reason from the landlord as to why they want her to vacate, however as the termination notice was given under Section 18 of the *Act* and is generally referred to as a *no fault* or *without cause* termination, the landlord's notice to the tenant need only state that they are relying on this section without having to provide a reason.
20. With regards to the tenant questioning the application and the company's name changes over the years and questioning if all pages of the service document were included, I asked the tenant if she knew who the landlord listed on the termination notice was and if she received the application and termination notice in her service documents and she responded yes to both questions. I find that the landlords name as listed on their application ([REDACTED]) and the landlord's name as listed on the termination notice ([REDACTED]) is one and the same and I find that the tenant knew that as well.
21. This tribunal can only review the authenticity of the termination notice and I find that the notice submitted by the landlord meets the requirements of not less than 3 months before the end of a rental period where the residential premises is rented month-to-month. The landlord testified that the termination notice was posted to the tenant's door and the tenant confirmed receiving the notice. I find that the termination notice is a valid notice.
22. I find that the tenant should have vacated the premises on 31-October-2024.

Decision

23. The termination notice dated 30-July-2024 is a valid notice.
24. The landlord's claim for an *order of vacant possession* succeeds.

**Issue # 2: Landlord's Hearing Expenses \$36.00
Tenant's Hearing Expenses \$20.00**

25. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and incurred postal costs to serve the document in the amount of \$16.00 and the landlord submitted a copy of the receipts (LL#3). The tenant also paid an application fee of \$20.00. Section 12-1 of the *Residential Tenancies Policy* states that in general, claimable costs may include the filing fee and any other charges in the preparation of the hearing. As the landlord's claim has been successful, the tenant shall pay the hearing expenses.

Decision

26. The landlord's claim for *hearing expenses* succeeds in the amount of \$36.00.

27. The tenant's claim for *hearing expenses* does not succeed.

Summary

28. The termination notice dated 30-July-2024 is a valid notice.

29. The landlord shall retain \$36.00 from the security deposit to cover hearing expenses.

30. The tenant shall vacate the premises immediately.

31. The tenant shall pay to the landlord any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.

32. The landlord will be awarded an Order of Possession.

November 22, 2024

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office