

## Residential Tenancies Tribunal

Application 2024-0968-NL

Oksana Tkachuk  
Adjudicator

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### Introduction

1. Hearing was called at 2:15 p.m. on 14-January-2025.
2. The applicant, [REDACTED] represented by [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 submitted an affidavit with their application stating that they have served the tenants with the notice of hearing electronically via emails to [REDACTED] and [REDACTED] on 18-December-2024 (LL#1). The landlord confirmed that they used these email addresses for communication with the tenants before. In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, the hearing proceeded in their absence.
5. There was written a fixed term rental agreement for one year which commenced in 2021 and became a month-to-month rental agreement. Rent is \$750.00 per month, due on the first and fifteenth of each month. A security deposit of \$350.00 was collected in the beginning of the tenancy and is in the landlord's possession.

### Issues before the Tribunal

6. The landlord is seeking:
  - An Order for Vacant Possession of the rented premises;

## 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*.
8. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent.

### Issue # 1: Vacant Possession of the Rented Premises

#### Relevant Submissions:

9. The landlords submitted a copy of the termination notice under Section 19: Notice where failure to pay rent. The notice is signed and dated 21-August-2024 and was served via email addresses on that day, with a termination date of 1-September-2024 (LL#2).

#### Landlord's Position:

10. The landlord's representative stated that the tenants have been residing in the unit for approximately five years and during this time, they have consistently failed to make full rental payments, often skipping one month of rent or making only partial payments. The landlord explained that this pattern of irregular payments had persisted for a while and stated that the last time the tenants had a zero balance was in January-2024, when the landlord empathized the importance of paying rent in full and on time. However, since that time, the tenant's payments have been either late or incomplete.
11. The landlord's representative stated that since the termination notice was issued on 21-August-2024 the tenants have not cleared the arrears and submitted a copy of the rental records to support their claim (LL#3). As of the hearing date, the landlord's representative stated that the tenants owe \$3550.00 in rental arrears. As a result, the landlord is seeking vacant possession of the rental property.

### Analysis

12. Section 19 of the *Residential Tenancies Act, 2018* states:

#### **Notice where failure to pay rent**

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

**(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.

13. I accept the landlord's testimony, as the tenants were not present or represented during the hearing to give their own testimony. In accordance with Section 19 of the Act as stated above, when rent is overdue, the landlord has the right to give the tenant a termination notice with cause. The tenant was in rental arrears in excess of 5 days when the termination notice was served. On the date of termination, 1-September-2024 the tenants were still in arrears. The termination notice meets the requirements of the Act and is a valid notice.

14. I find that the tenants should have vacated the property by 1-September-2024.

### **Decision**

15. The landlord's claim for an order for vacant possession of the rented premises succeeds.

### **Summary of Decision**

- 16. The tenants shall vacate the property immediately.
- 17. The tenants 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.
- 18. The landlord will be awarded an Order of Possession.

January 17, 2024

Date



Oksana Tkachuk, Adjudicator  
Residential Tenancies Office