

Residential Tenancies Tribunal

Application 2024-0990-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 9:00 AM on 14 November 2024 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "the tenant", attended the hearing.
3. The respondent, [REDACTED], hereinafter referred to as "the landlord", attended the hearing.

Preliminary Matters

4. The tenant supplied an affidavit of service (T#1) indicating the landlord was electronically served [REDACTED] on 24 October 2024 at 12:43 PM. The landlord did not dispute this service. In accordance with the *Residential Tenancies Act, 2018*, this is good service.
5. The details of the claim were presented as a fixed term rental agreement commencing on 1 August 2023, which evolved into a month-to-month rental agreement (T#2) which commenced on 1 August 2024. Rent is set at \$550.00 due on the 1st of each month. There was a security deposit collected on the tenancy on 4 August 2024, still in the possession of the landlord, of \$412.50. The tenant remains in the bedroom of the four-bedroom home on the date of the hearing.
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.

Issues before the Tribunal

7. The tenant is seeking validity of the termination notice and is seeking hearing expenses.

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 referred to in this decision are Sections 18, 34 and 35 of the *Act*.

Issue 1: Validity of Termination Notices Issued

Tenant Position:

10. The tenant testified that on 23 September 2024 at 8:50 PM, the landlord sent the tenant an e-mail requesting the tenant to sign the revised rental agreement with a rental increase of \$50.00 to take effect 1 January 2025. This e-mail also stated that the tenant's failure to sign the new rental agreement by 30 September 2024 would be considered a refusal to enter into a new rental agreement and the tenant would be expected to vacate the rental premises by 31 December 2024 (T#3). The tenant questioned the appropriateness of this e-mail and stated he declined to sign the new rental agreement as he did not understand his rights as a tenant. He emailed his stance to the landlord on 24 September 2024 (T#4).
11. The tenant testified that after he did not return the new rental agreement signed to the landlord by 30 September 2024, and the landlord served the tenant a Landlord's Notice to Terminate Early - Standard under Section 18 of the *Act* on 3 October 2024, with a move out date of 31 January 2025 (T#5). The tenant testified that the Section 18 Notice was issued to him by electronic mail, that he was unsure of his rights under legislation and wanted a determination as to whether the termination notice was valid

Landlord Position

12. The landlord testified that until recent months, there was a property manager in [REDACTED] [REDACTED] who managed the property and had overseen the initial rental agreement(s) in place. After he regained management, he had reviewed the rental agreements in place and discovered the tenant's agreement had expired at the end of July 2024 and evolved into a month-to-month agreement. The landlord wished to put a new fixed term agreement in place with all the same terms and conditions, with the exception of a rental increase to take effect in January 2025. The landlord stated he issued the tenant a new updated agreement in September 2024 which the tenant declined to sign on 24 September 2024. He felt that this was becoming an issue and more than one week was sufficient time to allow the tenant to review the document and decide whether he wished to extend his lease. Following this, he consulted the *Act* to determine what would be an appropriate termination notice, and then issued the Section 18 notice via electronic mail on 3 October 2024 (T#5)

Analysis

13. To be valid, a termination notice must comply with all relevant sections of the *Act*. The notice issued on 3 October 2024 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

.....

(b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month;

14. On examination of the termination notice submitted into evidence (T#5), I find that the notice served on 3 October 2024 had a terminated date of 31 January 2025. As the date of termination identified on the notice is not less than 3 months before the end of the rental period and the date the tenant is required to move out, the termination notice follows the requirements of Section 18 (2)(b).
15. Section 18 (9) and 34 identify the technical requirements of the termination notice.

Section 18 (9)

In addition to the requirements under Section 34, a notice under this section shall

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

Section 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.*

16. On examination of the termination notice, I find all these criteria have been met. Further, as identified above, the landlord testified that the termination notice was served electronically which is a permitted method of service identified under Section 35.
17. According to the reasons identified above, I find that the termination notice issued by landlord is a valid notice.

Decision

18. The notice of termination issued to the tenant is valid.

Issue 2: Hearing Expenses

19. As the tenant was unsuccessful in his application, his claim for hearing expenses fails.

Summary of Decision

20. The notice of termination issued to the tenant on 3 October 2024 is a valid notice.

20 December 2024

Date

Michael J. Reddy
Residential Tenancies Office