

Residential Tenancies Tribunal

Application 2024-1011-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:48 p.m. on 2-December-2024.
2. The applicant, [REDACTED], represented by [REDACTED] and [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant" attended by teleconference.

Preliminary Matters

4. The landlord submitted an affidavit with their application stating that they had served the tenant with the notice of hearing via prepaid registered mail ([REDACTED]) on 6-November-2024 (LL#1). The tenant disputed receiving the document. The landlord submitted proof of service from *Canada Post* showing that the mail was delivered and signed for on 8-November-2024 at 2:20pm (LL#2). 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-January-2016. Rent is \$263.00 per month due on the first day of each month. A security deposit was never paid.

Issues before the Tribunal

6. The landlord is seeking:
 - An Order for Vacant Possession of the rented premises.
 - Hearing expenses \$20.00

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 is the following section of the *Residential Tenancies Act, 2018*: Section 20: Notice where material term of an agreement contravened. Also, relevant and considered is Section 12-1 of the *Residential Tenancies Policy Manual*: Recovery of Fees.

Issue # 1: Vacant Possession of the Rented Premises

Relevant Submissions:

9. The landlord submitted a copy of a termination notice given under Section 20: Notice where material term of agreement contravened. The notice is signed and dated for 16-October-2024, with a termination date of 30-November-2024 (LL#3).

Landlord's Position:

10. The landlord's representative testified that the tenant contravened Section 9(g) of the rental agreement by removing the utilities from his name and having *NL Power* revert the account to their name. The landlord submitted a copy of the rental agreement to support the claim (LL#4). The landlord's representative testified that they received an electronic message from *NL Power* on 2-October-2024 informing them that the tenant had requested to close the electricity account associated with electricity supplied to the residential premises effective that date. The landlord submitted a copy of the email from *NL Power* to support the claim (LL#5). The landlord's representative testified that they contacted the tenant and asked him to put the electricity back in his name as per the conditions of the rental agreement and followed up with the request in writing on 10-October. The landlord submitted a copy of the written request to support the claim (LL#6). The landlord's representative testified that the electricity has remained in the landlord's name since 2-October to current date and they are seeking vacant possession due to a material breach.

Tenant's Position

11. The tenant did not dispute that he contacted *NL Power* and requested to remove his name from the electricity account, thereby reverting the account to the landlord, however he states that he made contact with *NL Power* and asked to have the account put back in his name.

Analysis

12. Section 20 of the *Residential Tenancies Act, 2018* states:

Notice where material term of agreement contravened

20. (2) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes a material term of a rental agreement, the landlord may give the tenant written notice of the contravention, and if the tenant fails to remedy the contravention within a reasonable time after the notice has been served, the landlord may give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises.

(3) Where the landlord gives a tenant notice under subsection (2) that a rental agreement is terminated, the notice shall be given

(b) not less than one month before the end of a rental period 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*

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

(a) *be signed by the person giving 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 date by which the tenant is required to vacate the residential premises; and*

(d) *be served in accordance with section 35.*

13. I accept the landlord's testimony and the exhibits entered into evidence which shows that the tenant agreed to have the electricity account in his name for the duration of the tenancy and which also shows that the tenant removed his name from the electricity account on 2-October. I asked the tenant if he could provide documentation showing that he had requested that *NL Power* put the electricity back in his name as requested by the landlord and he responded that he could not.

14. In accordance with Section 20 of the *Act* as stated above, where a tenant contravenes a material term of a rental agreement, the landlord may give the tenant written notice of the contravention, which the landlord could show that they did on 10-October and if the tenant fails to remedy the contravention within a reasonable time, the landlord may give notice to terminate the tenancy. The landlord gave the termination notice 6 days later, on 16-October which gave the tenant time to have the electricity account put back in his name and he failed to show that he made any attempts to do so. I find that the tenant breached the conditions of the rental agreement.

15. I find that the termination notice was given not less than 1 month before the end of a rented period where the residential premises is rented from month to month, and as such I find that the termination notice is a valid notice.

Decision

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

Issue # 2: Hearing Expenses \$20.00

17. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and provided a copy of the receipt (LL#7). The landlord is seeking hearing expenses to be paid in full. As the landlord's claim has been successful, the tenant shall pay the hearing expenses.

Decision

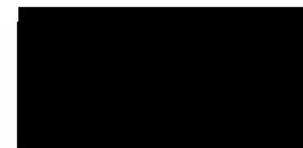
18. The landlord's claim for hearing expenses succeeds in the amount of \$20.00.

Summary of Decision

19. The tenant shall pay the landlord \$20.00 for hearing expenses.
20. The tenant shall vacate the property immediately.
21. 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.
22. The landlord will be awarded an Order of Possession.

December 6, 2024

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office