

Residential Tenancies Tribunal

Application 2024-1013-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 13-January-2025 at 9:04 am.
2. The applicant, [REDACTED], hereinafter referred to as the landlord, attended via teleconference.
3. The respondent, [REDACTED], hereinafter referred to as the tenant, also attended via teleconference.

Preliminary Matters

4. The respondent acknowledged that they received notice of the hearing more than ten days in advance.

Issues before the Tribunal

5. Should the landlords' claim for unpaid rent succeed?
6. Should the landlord's application 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 follows:

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.

Issue 1: Unpaid Rent

9. The landlord claims for \$4500.00 in unpaid rent. They provided a rental ledger (LL#1) in support of this. This \$4500.00 total represents the full monthly rent of \$750.00/month for the months of August, September, October, November, December, and January. The tenant did not dispute that he owes this rent.
10. I accept the landlord's uncontradicted testimony. However, this tribunal does not deal in future rent, and therefore cannot award rent for days which have not yet arrived. A daily rate must be calculated. The correct formula for determining a daily rate is multiplying the monthly rent by the 12 months of the year and dividing by the 365 days of the year. In this case, the daily rate is $\$750/\text{month} \times (12 \text{ months}/365 \text{ days}) = \sim \$24.66/\text{day}$.
11. Calculated for the date of the hearing, the rent owing for January is \$320.55. The total rent owing as of the date of the hearing is therefore \$4070.55.

Issue 2: Vacant Possession

12. In order to receive an order for vacant possession, a landlord must have issued a valid termination notice. To be valid, a termination notice must comply with all relevant sections of the *Act*.
13. The landlord submitted a copy of a termination notice (LL#2). LL#2 is in writing in the form prescribed by the minister. It contains the name and address of the recipient. It

identifies the residential premises it regards. It identifies itself as being issued under s. 24 of the *Act*. It therefore complies with s. 34.

14. LL#2 was signed by the landlord. It specifies the date on which the tenancy is to terminate and the tenants are to vacate the premises. The landlord testified that it was served on the tenant personally, in accordance with s. 35(2)(a) of the *Act*. It therefore complies with s. 19(4) of the *Act*.
15. The notice was issued on 24-September-2024. At this point, rent had been overdue for more than 5 days. It gives a move-out date of 5-October-2024, which is not less than 10 days after it was served.
16. The It therefore complies with s. 19(1)(b) of the *Act*.
17. LL#2 complies with all relevant sections of the *Act* and is therefore valid.

Decision

18. The valid termination notice gave a move out date of 5-October-2024. The tenancy agreement ended on that date. Insofar as the tenant still occupies the premises, he does so illegally.
19. The tenant shall pay to the landlord \$4070.55 in unpaid rent.
20. The tenant shall continue to pay rent at the daily rate of \$24.66/day for each day they remain in the premises after 13-January-2025.

Summary of Decision

21. The tenant shall vacate the premises immediately.
22. The tenant shall pay to the landlord any costs charged to the landlord, by the Office of the High Sherriff, should the landlord be required to have the Sheriff enforce the attached Order of Possession.
23. The tenant shall pay to the landlord \$4070.55 in unpaid rent.
24. The tenant shall continue to pay rent at the daily rate of \$24.66/day for each day they remain in the premises after 13-January-2025.

30-January-2025
Date


Seren Cahill
Residential Tenancies Office