

Residential Tenancies Tribunal

Application 2024-1017-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 2:00 PM on 14 November 2024.
2. The applicant, [REDACTED], hereinafter referred to as the landlord, attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as the tenant, did not attend.

Preliminary Matters

4. The tenant was not present or represented at the hearing and I was unable to reach him 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 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 he has been properly served. The landlord submitted an affidavit with his application stating that the tenant was served notice of hearing via registered mail ([REDACTED]) on 24 October 2024 (L#1). In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in his absence.
5. The details of the claim were presented as a written monthly rental agreement which commenced on 15 April 2024, with rent set at \$900.00, due on the 1st of each month. There was a security deposit of \$372.00 collected on the tenancy in May 2024 and still in possession of the landlord.
6. The landlord amended his application and was seeking hearing expenses.

Issues before the Tribunal

7. The landlord is seeking the following:
 - An Order of Eviction and possession of the rental premises
 - An Order for compensation for 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 considered in this decision are Sections 21, 34 and 35 of *the Act, 2018*, as well as *Policy 07-006: Premises Uninhabitable* of the *Residential Tenancies Program*.

Issue 1: Vacant Possession of the Rental Premises

10. The landlord testified rent is set at \$900.00 per month with the tenant being responsible to pay the utilities of the rental premises. He stated on 3 September 2024, he received an automatic landlord notification from Newfoundland Power which indicated the electricity had been cut from lack of payment of the utilities bill.
11. The landlord stated Newfoundland Power informed him that after the power had been cut on 3 September 2024, the power was again disconnected on 2 October 2024 due to usage recorded on the disconnected meter and following this, prior to power being restored, the [REDACTED] would have to complete an electrical inspection on the rental premises (L#2).
12. The landlord testified on 17 October 2024, he personally served the tenant a Landlord's Notice to Terminate Early- Cause under Section 21 of the *Residential Tenancies Act, 2018* with a request for the tenant to vacate the rental premises by 17 October 2024 (L#3).
13. The landlord testified on the date of the hearing (14 November 2024), the tenant remains in the rental premises.

Analysis

14. Notice where premises uninhabitable

21 (2) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where an action of, of a failure to act by, a tenant makes a residential premises unfit for habitation, the landlord may give the tenant notice that the rental agreement is terminated and that the tenant is required to vacate the residential premises effective immediately.

(3) *In addition to the requirements under Section 34, a notice under this Section shall*

- a) be signed by the person providing the notice;*
- b) state the date on which the rental agreement terminates and the tenant intends to vacate the residential premises on the date by which the tenant is required to vacate the residential premises; and*
- c) be served in accordance with Section 35.*

15. Upon review of the Notice served to the tenant under Section 21 (L#3), I see all requirements under Section 34 have been met.
16. Additionally, *Policy 07-006: Premises Uninhabitable of the Residential Tenancies Program* states, “*A rental premises may be considered uninhabitable when any of the following occurs:*
 - *The landlord or tenant causes utilities such as electrical power or water to be disconnected.*
17. Upon review of the evidence in its totality, the tenant should have vacated the rental premises on 17 October 2024.

Decision

18. The landlord’s claim for vacant possession of the rental premises succeeds.

Issue 2: Hearing Expenses

19. Along with his application, the landlord supplied a copy of the hearing receipt (L#4)

Decision

20. The landlord’s claim for hearing expenses succeeds.

Summary of Decision

21. The landlord is entitled to the following:

- An order for vacant possession of the rented premises.
- The tenant shall pay the landlord \$20.00 for hearing expenses.
- 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

27 November 2024
Date



Michael J. Reddy
Residential Tenancies Office