

Residential Tenancies Tribunal

Application 2024-1053-NL

Michael Reddy
Adjudicator

Introduction

1. Hearing was held at 2:01 PM on 4 December 2024 via teleconference.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as "the landlords", attended.
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 establish contact with her as telephone information was not available. 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 the hearing may proceed in the respondent's absence so long as they have been properly served. The landlords were approved for substituted service under section 42(5) of the *Residential Tenancies Act, 2018*, on 22 November 2024 (L#2), The landlords submitted an affidavit (L#1) with their application stating the tenant had been served a Notice of Hearing on 22 November 2024 at 11 AM (L#1). 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 her absence.
5. The verbal monthly rental agreement commenced in 2014 with rent of \$600.00 due on the 1st of each month. There was a security deposit of \$300.00 collected prior to occupancy, still in possession of the landlords.
6. The landlords amended their application and were looking for rental arrears to include December 2024.
7. 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

8. The landlords are seeking an Order of Vacant Possession of the rental property and rental arrears.

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in Sections 46 and 47 of the *Residential Tenancies Act, 2018* (the *Act*).
10. Also relevant and referred to in this decision are Sections 18, 34 and 35 of the *Act*.

Issue 1: Vacant Possession of the Rental Premises

11. The landlords testified on 15 July 2024, the tenant was personally served a Landlord's Notice to Terminate – Standard under Section 18 of the *Residential Tenancies Act, 2018*, with a request for the tenant to vacate the rental premises by 31 October 2024 (L#2). On the date of the hearing (4 December 2024), the tenant remains in the rental premises.

Analysis

12. On examination of the termination notice submitted into evidence (L#3), I find that the notice served on 15 July 2024 had a terminated date of 31 October 2024. 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).
13. Section 18 (9) and 34 identify the technical requirements of the termination notice.
14. **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.

15. On examination of the termination notice, I find all these criteria have been met. Further, as identified above, the landlords testified that the termination notice was served personally which is a permitted method of service identified under Section 35.
16. According to the reasons identified above, I find that the termination notice issued by landlords to be proper and valid. Therefore, the landlords are entitled to an order for vacant possession of the property, along with an order for all costs associated with certifying the orders or with the Sheriff to enforce such a Possession Order, should the Sheriff be engaged to execute the Possession Order.

Decision

17. The landlords claim for an Order for Vacant Possession succeeds.
18. The landlord is further awarded the cost associated with the certification and enforcement of the Possession Order by the High Sheriff of NL.

Issue 2: Rental Arrears

19. The landlords testified that monthly rent is \$600.00, due on the 1st of each month. They stated the tenant was last at a zero balance for August 2024. Along with their application, the landlords supplied a rental ledger (L#4). The landlords stated for September, October and November 2024, the tenant incurred rental arrears. L#4, identifies the following:

Date	Transaction	Due	Paid	Balance
Aug 2024	Rent Due	\$600.00	\$600.00	\$0.00
Sept 2024	Rent Due	\$600.00	\$500.00	\$100.00
Oct 2024	Rent Due	\$600.00	\$0.00	\$700.00
Nov 2024	Rent Due	\$600.00	\$0.00	\$1300.00

20. The landlords testified the tenant has also incurred arrears for December 2024.

Analysis

21. Non-payment of rent is a violation of a rental agreement. The landlords amended their application as indicated herein and are seeking rental arrears up to 31 December 2024 equaling \$1900.00.
22. The tenant had rental arrears of \$1300.00 up until 30 November 2024. As this tribunal does not include future rent, rent for December 2024 can only be calculated up to and including the day of the hearing (4 December 2024). That calculation is \$600.00 X 12 months = \$7200.00 ÷ 366 days = \$19.67 per day X 4 days = \$78.68. Rent owing for December 2024 is \$78.68.

Decision

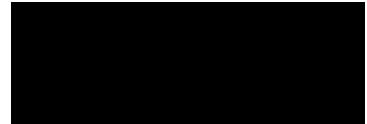
23. The landlords claim for rental arrears succeeds in the amount \$1378.68.
24. Additionally, the tenant is responsible for a daily rent in the amount of \$19.67 beginning on 5 December 2024 and continuing until the day the landlords obtain vacant possession of the rented premises.

Summary of Decision

25. The landlord is entitled to the following:
 - A payment of \$1378.68 of rental arrears
 - An Order for Vacant Possession of the rented premises
 - A payment of a daily rate in the amount of \$19.67, beginning on 5 December 2024 and continuing until the day the landlords obtain vacant possession of the rented premises.
 - The tenant shall also 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.

10 December 2024

Date



Michael Reddy, Adjudicator
Residential Tenancies Office