

Residential Tenancies Tribunal

Application 2024-1078-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 2:00 p.m. on 13-January-2025.
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 they have been properly served. The landlord submitted an affidavit with his application stating that he had served the tenant with the notice of hearing via pre-paid registered mail ([REDACTED]) on 24-December-2023 (LL#1). Canada Post tracking indicates that the mail was never retrieved. In accordance with the *Residential Tenancies Act, 2018* pre-paid registered mail is considered served 5 days after it is posted. 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. There is a verbal month-to-month rental agreement which commenced on 1-November-2023. Rent is \$1200.00 per month, due on the 1st 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.

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*. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 18: Notice of termination of rental agreement.

Issue # 1: Vacant Possession of the Rented Premises

Relevant Submission

8. The landlord submitted a copy of a termination notice issued to the tenant on 31-July-2024 under Section 18: Notice of termination of rental agreement to vacate the premises on 31-October-2024 (LL#2).

Landlord's Position

9. The landlord did not have a position as he gave the termination notice under the authority of the *Residential Tenancies Act, 2018*.

Analysis

10. The notice 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

(a) not less than 4 weeks before the end of a rental period where the residential premises is rented from week to week;

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

(c) not less than 3 months before the end of the term where the residential premises is rented for a fixed term.

.....

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

(a) be signed by the person providing 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 tenant intends to vacate the residential premises or the date by which the tenant is required to vacate the residential premises; and

(d) be served in accordance with section 35.

11. I asked the landlord how he gave the termination notice and he responded that he posted the notice to the tenant's door on 31-July-2024. This tribunal can only review the authenticity of the termination notice and I find that the notice submitted by the landlord meets the requirements of not less than 3 months before the end of a rental period

where the residential premises is rented month-to-month. I find that the termination notice is a valid notice.

12. I find that the tenant should have vacated the premises on 31-October-2024.

Decision

13. The landlord's claim for an *order of vacant possession* succeeds.

14. The tenant shall vacate the property immediately.

15. 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.

16. The landlord will be awarded an Order of Possession.

January 17, 2025
Date



Pamela Pennell, Adjudicator
Residential Tenancies Office