

Residential Tenancies Tribunal

Application 2024-1114-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 2:00 p.m. on 9-January-2025.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as “the landlord”, attended by teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants” did not attend.

Preliminary Matters

4. The tenants were not present or represented at the hearing and I was unable to reach them 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 respondents fail 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 2 affidavits with their application stating that they had served the tenants with the notice of hearing via pre-paid registered mail ([REDACTED] and [REDACTED]) on 19-December-2023. Canada Post tracking indicates that the mail was retrieved on 23-December-2024. In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.
5. There is a written month-to-month rental agreement which commenced on 1-November-2019. Rent is \$1020.00 per month, due on the 1st day of each month. A security deposit of \$410.00 was paid on 3-November-2019 and is in the landlord’s possession.

Issues before the Tribunal

6. The landlord is seeking:
 - An order for vacant possession of the rented premises.
 - Hearing expenses \$52.04.

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. Relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 18: Notice of termination of rental agreement. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Policy*: Section 12-1: Recovery of costs.

Issue # 1: Vacant Possession of the Rented Premises

Relevant Submission

9. The landlord submitted a copy of a termination notice issued to the tenants on 27-September-2024 under Section 18: Notice of termination of rental agreement to vacate the premises on 31-December-2024 (LL#2).

Landlord's Position

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

Analysis

11. 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.

12. I asked the landlord's representative how they gave the termination notice and she responded that the notice was posted to the tenant's door by a staff member on 30-September-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.

13. I find that the tenants should have vacated the premises on 31-December-2024.

Decision

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

Issue # 2: Hearing expenses \$52.04

15. Section 12-1 of the *Residential Tenancies Policy Manual* states:

Recovery of Costs

In general, claimable cost may include the following:

- a. The \$20.00 filing fee
- b. The costs incurred in the preparation for a hearing
- c. The cost incurred in serving the other party with the application or with the evidence, or serving a witness with a subpoena, such as
 - Process server
 - Registered mail or Xpresspost

16. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and they also incurred postal fees in the amount of \$32.04. The landlord provided a copy of receipts to support the claim (LL#3). As the landlord's claim has been successful and in accordance with Policy 12-1 as stated above, I find that the tenants are responsible for the hearing expenses.

Decision

17. The landlord's claim for *hearing expenses* succeeds in the amount of \$52.04.

Summary of Decision

18. The landlord shall retain \$52.04 from the security deposit to cover hearing expenses.

19. The tenants shall vacate the property immediately.

20. The tenants 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.

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

January 13, 2025

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office