

Residential Tenancies Tribunal

Application 2024-1134-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 1:47 p.m. on 4-February-2025.
2. The applicant, [REDACTED] represented by [REDACTED] and [REDACTED], hereinafter referred to as "the landlord" attended via teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as "the tenants", attended via teleconference.

Preliminary Matters

4. The landlord submitted two affidavits with their application stating that they had served the tenants with the notice of hearing via prepaid registered mail, tracking numbers [REDACTED] and [REDACTED] on 30-December-2024 (LL#1,2). The tenants confirmed receiving notice of the hearing. In accordance with the *Residential Tenancies Act, 2018* this is good service, I proceeded with the hearing.
5. There was a written fixed term rental agreement which commenced on 15-December-2022 for one year and converted into a month-to-month agreement (LL#3). Rent is \$1105.00 per month and due on the first of each month. A security deposit of \$530.00 was collected in the beginning of the tenancy and is in landlord's possession.

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*.
8. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent.

Issue #1: Vacant Possession of the Rented Premises

Landlord's Position

9. The landlord's representative testified that rent has not been paid on time for several months and remains outstanding. The landlord's representative stated that at least four termination notices were issued to the tenants in 2024 due to non-payment rent. Copies of these notices, issued under Section 19 of the Act for failure to pay rent, were submitted as evidence (LL#4). The landlord is seeking vacant possession of the rental premises.

Tenant's Position

10. The tenants did not dispute that rent had not been paid on time and confirmed receiving the termination notices. The tenants stated that the most recent termination notice due to the failure to pay rent was issued on 12-November-2024, requiring them to vacate by 25-November-2025; however they paid the outstanding rent on 24-November, before the termination date.

Analysis

11. The notices were served under Section 19 of the *Residential Tenancies Act, 2018* which states:

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.

(2) Notwithstanding subsection (1), where the tenant pays the full amount of the overdue rent, including a fee under section 15, before the date specified in the notice under paragraph (1)(a) or (b), the rental agreement is not terminated and the tenant is not required to vacate the residential premises.

(3) Subsection (2) does not apply where notice is given to a tenant under paragraph (1)(a) or (b) more than twice in a 12 month period.

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12. I accept landlord's representative's and tenant's testimony, that there were four termination notices issued to the tenants due to the failure to pay rent. Under Section 19(a) of the Act,

if a tenant fails to pay rent, the landlord may issue a termination notice. I accept that the tenants made payments before the termination date each time they received a termination notice; however, Section 19(3) of the Act states that if a landlord has issued more than two termination notices for non-payment of rent within 12-month period, payment of rent before the termination date will not invalidate the termination notice.

13. Upon reviewing the evidence, I accept that the landlord issued four termination notices due non-payment of rent, as issue with rent was ongoing issue. In accordance with the *Residential Tenancies Act, 2018*, the termination notice meets the technical requirements of Section 19 and 34 of the Act and was served according to the Section 35 of the Act, and as such is a valid notice.
14. I find that the landlord is entitled to an order for vacant possession of the rental unit.

Decision

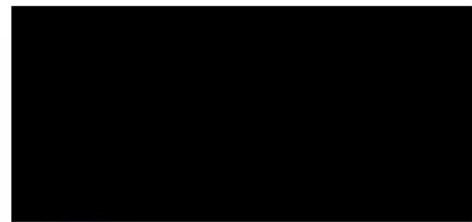
15. The landlord's claim succeeds.

Summary of Decision

16. The tenants shall vacate the property immediately.
17. 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.
18. The landlord will be awarded an Order of Possession.

February 13, 2025

Date



Oksana Tkachuk, Adjudicator
Residential Tenancies Office