

Residential Tenancies Tribunal

Application 2024-1148-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 21-January-2025 at 9:02 am.
2. The applicant, [REDACTED], hereinafter referred to as the landlord, attended via teleconference.
3. The respondent, [REDACTED] attended on behalf of himself and co-respondent [REDACTED]. The respondents are hereinafter referred to as the tenants.

Preliminary Matters

4. The tenant acknowledged receipt of notice of the hearing more than ten days in advance.

Issues before the Tribunal

5. Should the landlord's claim for an order of vacant possession succeed?
6. Should the landlord's claim for unpaid rent succeed?

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 (the *Act*).
8. Also considered and referred to in this decision are sections 18(2), 18(9), and 34 of the *Act*, reproduced below:

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.

Requirements for notices

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.

Issue 1: Vacant Possession

9. In order to receive an order for vacant possession, a landlord must issue a valid termination notice. To be valid, a termination notice must comply with all relevant sections of the *Act*. The landlord submitted LL#1, a termination notice they say was served on the tenant.
10. LL#1 is in writing in the form prescribed by the minister. It contains the name and address of the recipients. It identifies the residential premises for which it was given. It states it is issued under s. 18 of the *Act*. It therefore complies with s. 34.
11. LL#1 was signed by the landlord who provided it. It was given on 26-August-2024, 5 days before the first day of the relevant rental period. It states the date on which the rental agreement is to terminate, 30-November-2024, and this date is the last day of a rental period. It was served electronically in accordance with s. 35(2)(f) of the *Act*. It therefore complies with s. 18(9).
12. LL#1 provides three full months' notice, as required by s. 18(2).

13. The only remaining way LL#1 could be found invalid is if it was issued for an improper purpose in contravention of s. 29(1) of the *Act*. The tenant suggested that the landlord was terminating the rental agreement because of alleged damages to the property for which the tenants were not actually responsible. He said this sentiment was communicated to him by the landlord via text, but that he could not provide copies of the text messages, as his phone had been destroyed.
14. In any event, s.29(2) of the *Act* states that where a tenant who is served with a notice of termination of a rental agreement believes that the landlord has contravened subsection (1), he or she may, not later than one month after receiving the notice, apply to the director under section 42 for an order declaring that the rental agreement is not terminated. In the present case, the tenant made no such application and I therefore cannot consider the issue of termination for an improper purpose.
15. LL#1 complies with all relevant sections of the *Act* and is therefore valid.

Issue 2: Unpaid Rent

16. The landlord claims \$2700 of unpaid rent, representing the full monthly rent of \$900/month for the three months of November, December, and January. A rental ledger was provided in support of this (LL#2). The tenant did not contest that he owed this rent.
17. I accept the landlord's uncontradicted testimony. However, this tribunal does not award future rent. Therefore, rent can only be awarded to the date of the hearing. A daily rate must be calculated. The correct formula for a daily rate is found by multiplying the monthly rent by the 12 months and dividing by the 365 days of the year. In this case, the daily rate is $\$900/\text{month} \times (12 \text{ months}/365 \text{ days}) \approx \$29.59/\text{day}$. Multiplied by the days of the month that had begun on the date of the hearing, this means the total rent owing for the month of January was \$621.37. The total rent owed is therefore \$2421.37 as of the date of the hearing.
18. The landlord's claim for unpaid rent succeeds in the amount of \$2421.37.

Decision

19. A valid termination notice was issued which gives a move out date of 31-October-2024. The rental agreement terminated on that date. Insofar as the tenant is still residing at the premises, they are doing so illegally.
20. The landlord's application for an order of vacant possession succeeds.
21. The landlord's claim for unpaid rent succeeds in the amount of \$2421.37.
22. The tenants shall continue to pay rent at the daily rate of \$29.59 for each day they occupy the premises after 21-January-2025.

23. The landlord was successful in their claim and are therefore entitled to have their reasonable hearing expenses reimbursed. In this case, they claim only the \$20.00 application fee.
24. The tenancy has ended and the disposition of the security deposit must be determined. In the present case, the security deposit is \$450.00 and was received on or about 25-October-2021.
25. S. 14(7) of the *Act* states that a landlord shall credit interest to the tenant on the full amount or value of the security deposit, at the rate prescribed by the regulations, during the time the security deposit is held by the landlord. For 2021-2023, the interest rate prescribed by the regulations was 0%. For 2024-2025, the regulations prescribe a simple cumulative interest rate of 1% annual. Calculated to the date of the hearing, the total interest is \$4.77.

Summary of Decision

26. The tenants shall vacate the premises immediately.
27. The tenants shall pay to the landlord any costs charged to the landlord, by the Office of the High Sherriff, should the landlord be required to have the Sheriff enforce the attached Order of Possession.
28. The landlord is granted an order of possession.
29. The tenants shall continue to pay rent at the daily rate of \$29.59 for each day they occupy the premises after 21-January-2025.
30. The tenants shall pay to the landlord \$1986.60 as follows:

Unpaid Rent.....	\$2421.37
Hearing Expenses.....	\$20.00
Less Security Deposit.....	-\$454.77)
Total.....	\$1986.60

29-January-2025
Date


Seren Cahill
Residential Tenancies Office