Residential Tenancies Tribunal

Application 2025-0016-NL

Seren Cahill
Adjudicator

Introduction

1.   Hearing was held on 11-February-2025 at 9:08 am.

2.   The applicant, ██████████████████ , hereinafter referred to as the landlord, attended via teleconference.

3.   The respondent, ████████ , hereinafter referred to as the tenant, did not attend.

Preliminary Matters

4.   The tenant was not present or represented at the hearing. I attempted to reach them by telephone and was successful. They indicated they wished to seek a last-minute postponement. I invited them to join the teleconference to discuss this and they agreed. They advised that they had suffered some personal tragedies recently and felt unable to handle the stress of the hearing. I asked the landlord for his position. While he was speaking, the tenant grew upset and began to interrupt. Before I could restore order, the tenant disconnected from the call and did not rejoin. The landlord asked the postponement request be denied as he felt it was a delay tactic, alleging that the tenant had told him she would fight the eviction in every way that she could and he noted that the postponement request was made at the last possible moment. As the tenant had not provided any explanation for why she failed to comply with the procedure and notice requirements for a postponement request, I denied the postponement.

5.   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 that the hearing may proceed in the respondent's absence so long as they have been properly served. The landlords submitted an affidavit (LL#1) with their application stating that they had served the tenants with notice of the hearing both electronically and by prepaid registered mail on 24-January-2025 at 12:15/12:50 pm. Proof of service was also provided as part of LL#1. Checking the tracking number showed that the documents were received. As the tenant was properly

served, and as any further delay in these proceedings would unfairly disadvantage the landlords, I proceeded with the hearing in their absence.

Issues before the Tribunal

6.   Should the landlord's claim for an order of vacant possession 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#2, a termination notice they say was served on the tenant.

10.   LL#2 is in writing in the form prescribed by the minister. It contains the name and address of the recipient. 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#2 was signed by the landlord. The landlord testified that it was given on the 19th or the 20th of September 2024, more than ten days before the first day of the relevant rental period. It states the date on which the rental agreement is to terminate, 31-December-2024, and this date is the last day of a rental period. It was served in accordance with s. 35(2)(c) and 35(2)(d) 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.   LL#1 complies with all relevant sections of the *Act* and is therefore valid.

Decision

14.   A valid termination notice was issued which gives a move out date of 31-December-2024. The rental agreement terminated on that date. Insofar as the tenant is still residing at the premises, she is doing so illegally.

15.   The landlord's application for an order of vacant possession succeeds.

Summary of Decision

16.   The tenants shall vacate the premises immediately.

17.   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.

18.   The landlord is granted an order of possession.

<u>12-February-2025</u>
Date

Seren Cahill
Residential Tenancies Office