

Residential Tenancies Tribunal

Application 2025-0143-NL & 2025-0144-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 18-March-2025 at 1:45 pm.
2. The applicants, [REDACTED], hereinafter referred to as the landlord, attended via teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as the tenants, were represented at the hearing by [REDACTED], who attended via teleconference.

Preliminary Matters

4. The tenant acknowledged that they were served notice of the hearing more than ten days in advance.
5. The sole issue of the counterclaim was the validity of the termination notice. As the validity of a termination notice is an essential requirement of receiving an order of vacant possession, both issues were dealt with together.

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 19(1-4) and 34 of the *Act*, as follows:

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.

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

(a) be signed by the landlord;

(b) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and

(c) 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: Unpaid Rent, Utilities, and Late Fees

9. In order to succeed in a claim for an order for vacant possession, a landlord must have issued a valid termination notice. To be valid, a termination notice must comply with all relevant sections of the *Act*.

10. The landlord submitted a copy of a termination notice labelled Exhibit 3. Exhibit 3 is in writing in the form prescribed by the minister. It contains the name and address of the recipient. It identifies the residential premises it regards. It identifies itself as being issued under s. 19 of the *Act*. It therefore complies with s. 34.
11. The notice was signed by the landlord. It specifies the date on which the tenancy is to terminate and the tenant is to vacate the premises. The landlord testified that the notice was served on the tenant electronically in accordance with s. 35(2)(f) of the *Act*. It therefore complies with s. 19(4) of the *Act*.
12. Exhibit 3 is dated 7-November-2024 and was served on the tenant that day. At this point, according to the facts as agreed by the parties and the rental ledger, payment was overdue by more than 5 days. It gives a move out date of 18-November-2024. It therefore complies with s. 19(1) of the *Act*.
13. The tenant paid the overdue rent on 15-November-2024. In accordance with s. 19(2) of the *Act*, the rental agreement was therefore not terminated.
14. The landlord submitted a copy of another termination notice labelled Exhibit 5. Exhibit 5 is in writing in the form prescribed by the minister. It contains the name and address of the recipient. It identifies the residential premises it regards. It identifies itself as being issued under s. 19 of the *Act*. It therefore complies with s. 34.
15. The notice was signed by the landlord. It specifies the date on which the tenancy is to terminate and the tenant is to vacate the premises. The landlord testified that the notice was served on the tenant electronically in accordance with s. 35(2)(f) of the *Act*. It therefore complies with s. 19(4) of the *Act*.
16. Exhibit 5 is dated 7-January-2025 and was served on the tenant that day. At this point, according to the facts as agreed by the parties and the rental ledger (Exhibit 9), payment was overdue by more than 5 days. It gives a move out date of 18-January-2025. It therefore complies with s. 19(1) of the *Act*.
17. The tenant paid the overdue rent on 16-January-2025. In accordance with s. 19(2) of the *Act*, the rental agreement was therefore not terminated.
18. The landlord submitted a copy of another termination notice labelled Exhibit 5. Exhibit 5 is in writing in the form prescribed by the minister. It contains the name and address of the recipient. It identifies the residential premises it regards. It identifies itself as being issued under s. 19 of the *Act*. It therefore complies with s. 34.
19. The notice was signed by the landlord. It specifies the date on which the tenancy is to terminate and the tenant is to vacate the premises. The landlord testified that the notice was served on the tenant electronically in accordance with s. 35(2)(f) of the *Act*. It therefore complies with s. 19(4) of the *Act*.
20. Exhibit 7 is dated 7-February-2025 and was served on the tenant that day. At this point, according to the facts as agreed by the parties and the rental ledger (Exhibit 9), payment

was overdue by more than 5 days. It gives a move out date of 18-February-2025. It therefore complies with s. 19(1) of the *Act*.

21. The tenant paid the overdue rent on 13-February-2025. However, as this was the third notice given under s. 19(1) of the *Act* in a 12 month period, s. 19(3) dictates that s. 19(2) does not apply.
22. Exhibit 7 complies with all relevant sections of the *Act* and is therefore valid.

Decision

23. The valid termination notice gave a move out date of 18-February-2025. The tenancy agreement ended on that date. Insofar as the tenant still occupies the premise, they are doing so illegally. The landlord's application for an order of vacant possession succeeds.

Summary of Decision

24. The tenants shall vacate the premises immediately.
25. 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.

14-April-2025
Date



Seren Cahill
Residential Tenancies Office