

Residential Tenancies Tribunal

Application 2025-0160-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:14 a.m. on 24-March-2025.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as "the landlord", attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant", did not attend.

Preliminary Matters

4. The tenant was not present or represented at the hearing and I was unable to reach him 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 the notice of 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 he has been properly served. The landlord submitted an affidavit with their application stating that they had served the tenant with the notice of hearing via pre-paid registered mail [REDACTED] on 9-March-2025 (LL#1). Canada Post tracking indicates that the mail was processed on 5-March and retrieved on 9-March. In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in his absence.
5. There is a verbal month-to-month rental agreement which commenced on 1-March-2020. Rent is \$795.00 per month, due on the first day of each month. A security deposit of \$372.00 was paid on 1-March-2020.

Issues before the Tribunal

6. The landlord is seeking:
 - An order for vacant possession of the rented premises
 - Hearing expenses \$20.00

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 are the following sections of the *Residential Tenancies Act, 2018*: Section 10; Statutory conditions and Section 22; Notice where tenant's obligation is not met. Also, relevant and considered is the following section of the *Residential Tenancies Policy Manual*: Section 12-1: Recovery of costs.

Issue # 1: Vacant Possession of the Rental Premises

Relevant Submission

9. The landlord submitted a copy of a termination notice that was given on a *Landlord's Notice to Terminate Early – Cause* form (LL#2). The notice was issued to the tenant on 13-February-2025 under Section 22; Notice where tenant's obligation is not met to vacate on 19-February-2025.

Landlord's Position

10. The landlord's representative testified that there is damage to the unit and cleaning is required and he testified that they gave the tenant a list of the items that needed to be repaired / replaced on a *Landlord's Request for Repairs* form dated 4-February-2025 to be completed by the 8-February-2025 (LL#3). The items requested are as follows:
 - 1). *Repair / replace broken window in kitchen*
 - 2). *Repair / replace broken glass in front door – commercial grade*
 - 3). *Clean apartment of smoke residue, wash walls, surfaces and floors*
 - 4). *Clean unit of all debris / garbage and remove garbage*
 - 5). *Discontinue smoking inside premises immediately*
11. The landlord's representative testified that he gave the tenant the above noted list of items to be repaired / replaced and outlined the cleaning that was required on 4-February requesting the work to be completed on 8-February. The landlord's representative testified that he visited the unit on 8-February at which time none of the work had been repaired / replaced and he stated that the cleaning was not done either. The landlord's representative stated that they gave the tenant an eviction notice on 13-February-2025 as the tenant had not complied with their request and they are seeking vacant possession of the rented premises.

Analysis

12. The relevant subsections of Section 22 of the *Residential Tenancies Act, 2018* state:

Notice where tenant's obligation not met

22. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes statutory condition 2 set out in subsection 10(1), the landlord may give the tenant notice requiring the tenant to comply with the condition.

(2) Where a tenant contravenes statutory condition 2 set out in subsection 10(1) within 3 days after the notice under subsection (1) has been served or within a reasonable time, the landlord may give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises on a specific date not less than 5 days after the notice has been served.

13. The relevant subsections of Section 10 of the *Residential Tenancies Act, 2018* state:

Statutory Conditions

10. (2) *Obligation of the tenant* -The tenant shall keep the residential premises clean, and shall repair damage caused by a wilful or negligent act of the tenant or a person whom the tenant permits on the residential premises.

14. In accordance with Sections 22 and 10 of the *Act* as stated above, the tenant had an obligation to keep the residential premises clean and damage free. I accept the landlord's testimony that there were damages to the unit caused by a wilful or negligent act of the tenant or a person whom the tenant permitted on the premises. I asked the landlord's representative how he served both the termination notice and the request for repairs form and he responded that he served both electronically and in person on the dates indicated on the forms.

15. I find that the termination notice submitted by the landlord meets the requirements of not less than 5 days after the notice had been served. I find that the termination notice is a valid notice, and I find that the tenant should have vacated the premises on 19-February-2025.

Decision

16. The landlord's claim for vacant possession of the rented premises succeeds.

Issue # 2: Hearing Expenses \$20.00

17. The landlord paid an application fee of \$20.00 to *Residential Tenancies* and submitted a copy of the receipt to support the claim (LL#4). In accordance with Section 12-1 of the *Residential Tenancies Policy Manual*, filing fees can be claimable costs. As the landlord's claim for losses has been successful, I find that the tenant is responsible for the hearing expenses.

Decision

18. The landlord's claim for *hearing expenses* succeeds in the amount of \$20.00.

Summary of Decision

19. The landlord shall retain \$20.00 from the security deposit to cover hearing expenses.

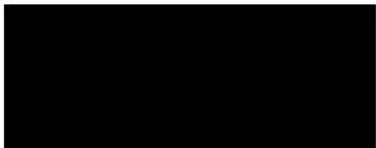
20. The tenant shall vacate the property immediately.

21. The tenant 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.

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

March 27, 2025

Date


Pamela Pennell, Adjudicator
Residential Tenancies Office