

Residential Tenancies Tribunal

Application 2025-0247-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 22-April-2025 at 9:02 am.
2. The applicant, [REDACTED], hereinafter referred to as the landlord, attended via teleconference and was represented at the hearing by his counsel [REDACTED], who also attended via teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as the tenants, also attended via teleconference.

Preliminary Matters

4. The tenants confirmed that they received notice of the claim more than ten days in advance of the hearing date.

Issues before the Tribunal

5. Should the landlord's claim for unpaid rent and late fees succeed?
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), 19(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.

...

(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

9. The landlord claims for unpaid rent at the full monthly rate of \$1400/month for the months of February and March 2025, as well as pro-rated rent for the month of April to the hearing date. A rental ledger (LP#2) was provided in support of this. The landlord testified that he has received no rent since 16-January-2025, at which time the balance was \$0.

10. The tenants acknowledged that they did not pay rent since this time, which they say is because the landlord did not address issues in the premises. However, they did not make an application before this tribunal to have these alleged failures to repair considered. The requirement that parties file an application for such a claim is more than

a formality of paperwork. It serves as notice to the other party (and to the tribunal) as to the issues that will be addressed, so they can prepare the appropriate evidence, and thus avoids parties being “ambushed” with new issues they weren’t expecting. This makes it a matter of procedural fairness, a cornerstone of administrative law.

11. There being no dispute on the evidence that the tenants owe rent, I find in favor of the landlord.
12. A daily rate must be calculated. The correct formula for determining a daily rate is found by multiplying the monthly rate by the 12 months of the year and dividing by its 365 days. In this case, the daily rate is $\$1400.00 \times (12 \text{ months} / 365 \text{ days}) = \$46.03/\text{day}$. Calculated to the date of the hearing, the total rent owing for April is therefore \$1012.60, and the total rent owing as of the date of the hearing is \$3812.60.
13. S. 15(1) of the *Act* states that where a tenant does not pay rent for a rental period within the time stated in the rental agreement, the landlord may charge the tenant a late payment fee in an amount set by the minister. The minister has set the rate of late fees at \$5.00/day for the first day and \$2.00/day for each day thereafter to a maximum of \$75.00. As rent has been overdue for more than 35 days, the maximum late fee applies.

Issue 2: Vacant Possession

14. 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*.
15. The landlord submitted a document labelled LP#3, which consists of 3 termination notices. The most recent of these notices, with the latest termination date, is on page 3. This notice is in writing in the form prescribed by the minister. It contains the name and address of the recipients. It identifies the residential premises which it regards. It states that it has been issued under s. 19 of the *Act*. It therefore complies with s. 34 of the *Act*.
16. The notice was signed by the landlord. It states the date on which the rental agreement was to terminate. The landlord testified that it was served on the tenants electronically, in accordance with s. 35(2)(f) of the *Act*. It therefore complies with s. 19(4).
17. The notice is dated and was served on 9-February-2025, at which point rent was overdue by more than 5 days. It provides a move out date of 21-February-2025, which is not less than 10 days after it was served. It therefore complies with s. 19(2) of the *Act*.

Decision

18. The landlord’s claim for unpaid rent succeeds in the amount of \$3812.60.
19. The landlord’s claim for late fees succeeds in the amount of \$75.00.
20. The valid termination notice gave a move out date of 21-February-2025. The tenancy agreement ended on that date. Insofar as the tenants still occupy the premise, they are doing so illegally. The landlord’s application for an order of vacant possession succeeds.

21. The tenants shall continue to pay rent at the daily rate of \$46.03/day for each day they remain in the premises after 22-April-2025.
22. The tenancy has ended and the disposition of the security deposit must be determined. As the landlord is owed moneys, they may apply the security deposit against the sum owed. The security deposit is \$1050.00 which was received on 26-September-2024.
23. 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. The regulations prescribe a simple cumulative interest rate of 1% annual for the years 2024 and 2025. Calculated to the date of the hearing, this results in interest totaling \$6.03.
24. The landlord was successful in their application and therefore may seek to be reimbursed for their reasonable hearing expenses. They seek only the \$20.00 application fee, which is granted.

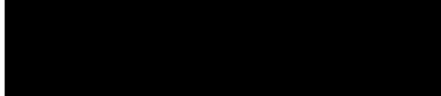
Summary of Decision

25. The tenants shall vacate the premises immediately.
26. 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.
27. The tenants shall continue to pay rent at the daily rate of \$46.03/day for each day they remain in the premises after 22-April-2025.
28. The tenants shall pay to the landlord \$2851.57 as follows:

Unpaid Rent.....	\$3812.60
Late Fees.....	\$75.00
Hearing Expenses.....	\$20.00
Less Security Deposit....	(\$1056.03)
Total.....	\$2851.57

28-April-2025

Date


Seren Cahill
Residential Tenancies Office