

Residential Tenancies Tribunal

Application 2025-0290-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 6-May-2025 at 2:00 pm.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as the landlords, were represented at the hearing by [REDACTED], who attended via 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 them 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 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 electronically on 14-April-2025 at 1:07 pm. Proof of service was also provided (LL#2). 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

5. Should the landlord's claim for unpaid rent 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 originally claimed claims for unpaid rent in the amount of \$3300.00. However, they disclosed they had since received a single payment of \$1400.00 on 29-April-2025. In combination with the monthly rent becoming due for the month of May, they calculated the new rent owing as \$2400.00 and amended their claim to this amount. A pair of rental ledgers was provided in support of this (LL#3 and LL#4). The last entry on the rental ledger is 4-April-2025.
10. The rental ledgers include some improperly applied late fees. The rate for late fees is \$5.00 for the first day and \$2.00 for each day thereafter to a maximum of \$75.00. To account for this, I recalculated by multiplying the monthly rent by each of the twelve months since the last time the balance was \$0.00 or less and added the \$75.00 maximum late fee, then subtracted each payment received, which resulted in a total rent owing of \$2525.00 as of the end of April 2025. However, I would not award more than what has been claimed.
11. The landlord's claim succeeds in the full amount claimed of \$2400.00.

Issue 2: Vacant Possession

12. In order to receive an order for vacant possession, a landlord must have first issued a valid termination notice. To be valid, a termination notice must comply with all relevant sections of the *Act*. The landlord provided a copy of a termination notice (LL#5) they say they provided to the tenant.
13. The termination notice is written in the form prescribed by the minister. It contains the name and address of the recipient. It identifies the residential premises for which it is given. It states that it was issued under s. 19 of the *Act*. It therefore complies with s. 34.
14. 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)(e) of the *Act*. It therefore complies with s. 19(4).
15. The notice is dated and was served on 14-April-2025, at which point the landlord testifies and I accept that rent was overdue by more than 5 days. It provides a move out date of 30-April-2025, which is not less than 10 days thereafter. It therefore complies with s. 19(1)(b) of the *Act*.
16. LL#5 complies with all relevant sections of the *Act* and is therefore valid.

Decision

17. The tenant shall pay to the landlord \$2400.00 in unpaid rent.
18. The valid termination notice gave a move out date of 30-April-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.
19. The tenants shall continue to pay rent at the daily rate of \$34.52/day for each day they remain in the premises after 6-May-2025.

20. The landlord was successful in their application and therefore may seek to be reimbursed for their reasonable hearing expenses. They seek the \$20.00 application fee and a \$40.00 fee charged by a commissioner of oaths, for which a receipt was provided. These are granted.
21. The tenancy has ended and the security deposit must be disposed of. In the present case the security deposit is \$350.00 which was received on 23-August-2023. 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 prescribed an interest rate of 0% for year 2023 and a simple cumulative interest rate of 1% annual for the years 2024 and 2025. Calculated to the date of the hearing, this results in total interest total of \$4.72.

Summary of Decision

22. The tenant shall vacate the premises immediately.
23. 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.
24. The tenant shall continue to pay rent at the daily rate of \$34.52/day for each day they remain in the premises after 6-May-2025.
25. The tenant shall pay to the landlord \$2105.28 as follows:

Unpaid Rent.....	\$2400.00
Hearing Expenses.....	\$60.00
Less Security Deposit....-	(\$354.72)
 Total.....	 \$2105.28

12-May-2025

Date



Seren Cahill
Residential Tenancies Office