

## Residential Tenancies Tribunal

Application [REDACTED]  
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Decision 21-0243-05

John R. Cook  
Adjudicator

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### Introduction

1. Hearing was called at 1:06 pm on July 28, 2021 via teleconference.
2. The applicant, [REDACTED] hereinafter referred to as “the tenant,” attended by teleconference.
3. The respondent, [REDACTED] represented by [REDACTED] [REDACTED] hereinafter referred to as “the landlord,” also attended by teleconference.

### Issues before the Tribunal

4. The tenant is seeking the determination of the validity of a termination notice issued to her on 12 May 2021.
5. The landlord is seeking an order for vacant possession of the rented premises.

### Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*: jurisdiction of the Director of Residential Tenancies.
7. Also relevant and considered in this case is section 18 of the *Residential Tenancies Act, 2018*: notice of termination of rental agreement, as well as section 34: requirements for notices.

**Issue 1: Vacant Possession of the Rental Premises****Issue 2: Determination of Validity of Termination Notice****Relevant Submissions**The Landlord's Position

1. The landlord submitted a written agreement (█#02) for a monthly rental with the tenant on February 11, 2015. The current rent is \$263.00 a month due the 1<sup>st</sup> day of the month. Presently they are in a month to month rental.
2. Included in the application, the landlord submitted a copy of the termination notice (█#06) advising the tenant to deliver possession of the premises in accordance with Section 18 of the *Residential Tenancies Act*. This notice was dated for April 30, 2021 with a termination date of July 30<sup>th</sup>, 2021.
3. The termination letter was sent by registered mail with Canada Post. The date the letter was processed was May 8, 2021 and delivered to the tenant on May 12, 2021.

The Tenant's Position

4. The tenant acknowledged that she received the notice as stated. She believed that the landlord was compelled to provide an explanation as to why she was evicted. She conceded that she didn't understand that no explanation was required with a three month notice.

**Analysis**

5. The relevant subsections of s.18 of the *Residential Tenancies Act, 2018* state:

***Notice of termination of rental agreement***

***18. (1) A landlord shall give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises***

...

***(b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month***

...

***(2) 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*
- 6. Section 18 of the *Act* allows a landlord to terminate a rental agreement with 3 months' notice to the tenant, without having to provide reasons to either the tenant or this Board.
- 7. However, the landlord's notice does not meet the timeframe requirements set out in this section of the *Act* and it is therefore void and of no effect.
- 8. Section 18.2(c) states that a landlord's notice shall "state the date, which shall be the last day of a rental period, on which the rental agreement terminates and ... the date by which the tenant is required to vacate the residential premises". As the rental period in this tenancy is running from the first day of the month to the last day of the month, the termination date set out in the notice has to fall on the last day of that rental period. If the landlord is looking to have the tenant vacate in July 2021, the termination date has to be listed as 31 July 2021, not 30 July 2021 as found in the landlord's notice.
- 9. Additionally, section 18.1(b) states that notice under this section of the *Act* must be given "not later than 3 months before the end of a rental period". Even if the landlord had provided the correct termination date of 31 July 2021, that would mean that the notice had to be given to the tenant sometime prior to 01 May 2021. However, the tracking history provided by the landlord shows that it was not processed at the post office until 08 May 2021 and it was only delivered to the tenant on 12 May 2021. But on 12 May 2021, the earliest the landlord could terminate the agreement under this section of *Act* would have been 31 August 2021.
- 10. For these reasons, the landlord's claim does not succeed.

### **Decision**

- 11. The termination notice issued to the tenant on 12 May 2021 is not a valid notice.
- 12. The landlord's claim for an order for vacant possession of the rented premises fails.

### **Issue 2: Hearing Expenses**

- 13. The tenant paid a fee of \$20.00 to file her application. As her claim has succeeded, the landlord shall pay that hearing expense.

## **Summary of Decision**

14. The termination notice issued to the tenant on 12 May 2021 is not a valid notice.
15. The landlord's claim for an order for vacant possession of the rented premises does not succeed.
16. The landlord shall reimburse the tenant \$20.00 for the filing fee.

18 August 2021

Date

