

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0406-05

Jacqueline Williams
Adjudicator

Introduction

1. The hearing was called at 9:43 a.m. on September 21, 2021.
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, also attended by teleconference.

Preliminary Matters

4. The landlord submitted an affidavit (#01) stating that a staff, [REDACTED] served the tenant on 12-October-2021 in person; both the landlord and tenant agree on the service of notification of this hearing.

Issues before the Tribunal

5. The Landlord is seeking:
 - An order of vacant possession
 - Hearing expenses of \$20.00 reimbursed

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*.
7. Also relevant and considered in this case is the following sections of the *Residential Tenancies Act, 2018*: section 18: notice of termination of rental agreement, section 34: requirements for notices, and section 35: Service of documents.

Issue 1: Vacant Possession

Landlord's Position

8. The landlord stated that they entered into a written monthly rental agreement with the tenant. The tenant moved in on 13-January-2021 and is still living at the apartment. The monthly rent is \$825.00 pay own utilities, from the 1st day to the end of each month. The rent is due on the 1st day of each month. The tenant paid his \$612.00 security deposit in installments from February – May 2021. The landlord is still in possession of the security deposit.
9. The landlord submitted a Notice to Terminate –Standard under section 18 of the Residential Tenancies Act (■#03), this notice indicates that the staff ■ served the tenant on 31-May-2021 by giving it to him in person. The termination date is for 31-August-2021.
10. The landlord said that it is their practice, when giving a termination notice that she signs the form, then the staff ■ immediately brings it to the tenant, she often watches the transaction on the video system. Then the staff returns to her office and confirms that the tenant has been served. She said that this notice was served on the date it was signed, 31-May-2021.
11. The landlord said that she also printed a copy of the termination notice and it was given again in June to remind the tenant of the termination date.

Tenants' Position

12. The tenant agrees to the terms of his rental agreement.
13. The tenant did not think he had been served of notice of termination in May, but thought it was later.
14. The tenant believes that he is being evicted because of his dog.
15. The tenant has been working with ■ and ■ to find a new place to live.
16. The tenant is concerned that he will be out on the streets in the winter.
17. The tenant said his rent is up to date and the other tenants like him and he doesn't understand why this is happening.

Analysis

18. The tenant believed that he was served later than May, the landlord explained that he was served in May but they provided the termination notice again in June, as a reminder of the termination date. I accept that the confusion was caused by the tenant receiving the document twice. The landlord explained the process that they follow with notices and her statement that once the paper is signed, it is served immediately. This notice is signed on 31-May-2021.
19. The tenant is concerned that no explanation has been given to him as to why he is to vacate. It was relayed to him that according to Section 18 of the *Residential Tenancies Act; 2018*, the landlord does not have to provide the tenant or this board a reason for termination, they are only required to provide 3 full months' notice.
20. The *Residential Tenancies Act, 2018* Section 18 (2) & (9) states:

Notice of termination of rental agreement

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

- (a) not less than 4 weeks before the end of a rental period where the residential premises is rented from week to week;
- (b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month; and
- (c) not less than 3 months before the end of the term where the residential premises is rented for a fixed term.

....

(9) 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.

21. Section 18 (2) (b) states that the notice be not less than 3 months before the end of a rental period. The termination notice provided to the tenant (█#03) is for a 3 month period. It is dated for 31-August- 2021.
22. The landlord's notice meets the requirements in the *Act*.

Decision

23. The landlord's claim for an order for vacant possession succeeds.
24. The tenant shall vacate the premises immediately.
25. The tenant shall also 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.

Issue 2: Hearing Expenses

26. The landlord incurred the cost of filing for the hearing expense and provided a receipt for the \$20.00 [REDACTED] #04); as the claim is successful the landlord may retain \$20.00 from the Tenant's security deposit.

Summary of Decision

28. The landlord is entitled to the following:
 - An order for vacant possession of the rented premises,
 - The tenant shall also 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.
 - They may retain \$20.00 of the tenant's security deposit for this expense.

November 4, 2021

Date

