

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0450-05

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 9:46 a.m. on 20-October-2021.
2. The applicants, [REDACTED] hereinafter referred to as "landlord1 and landlord2" attended by teleconference.
3. The respondents, [REDACTED] hereinafter referred to as "tenant1 and tenant2" did not attend.

Preliminary Matters

4. The tenants were not present or represented at the hearing and I was unable to reach them by telephone at the start of the hearing because their phone number is for text only. 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 he has been properly served. The landlords submitted an affidavit [REDACTED #01] with their application stating that landlord2 had served the tenant's adult daughter, who lives at the apartment with notice of the hearing. As the tenants were 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. The landlords are seeking:
 - Rent paid \$1,550.00
 - Vacant Possession of the property

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 are sections 19: notice where failure to pay rent and 35: service of documents, of the *Residential Tenancies Act, 2018*.

Issue 1: Rent Paid \$1,550.00

Relevant Submissions Position

8. The landlords provided a copy of the written rental agreement (■#02). The tenants moved in early September, 2017. They are in a monthly rental agreement for \$875.00 a month which include Rogers internet. There was no security deposit paid.
9. In June the washer broke and was unfixable, the landlords reduced the rent to \$775.00 to accommodate for the loss of the washer.
10. The landlords had served the tenants with a notice to terminate standard ■#03). As they had believed that the tenants would have vacated, the Rogers internet ended on September 30, 2021.
11. The landlords submitted a rent ledger ■#02) indicating no rent paid for September or October of 2021.

Analysis

12. The landlords have provided a rent ledger indicating no rent payments for September and October, 2021. Nonpayment of rent is a violation of the rental agreement.
13. The landlords also provided a termination notice (■#03) with a termination date of September 30, 2021.
14. Tenants will be charged a daily rate from October 1st going forward until the day the landlords take possession of their property.
15. Rent due for October until day of hearing: \$509.60
\$750.00 per month x 12 months = \$9,300.00
\$9,300.00 divided by 365 days = \$24.48 per day
\$24.58 per day x 20 days = \$509.60
16. The tenants owe \$775.00 for September's rent and \$509.60 for October's rent (up to the hearing date, for a total of \$1,248.60.

Decision

17. The tenants shall pay the landlords \$1,248.60 for rent owing.
18. The tenants will pay a daily rate of rent, \$24.48 beginning 21-October-2021 until they give over possession of the apartment.

Issue 2: Vacant Possession of the Rental Premises

Relevant Submissions

19. Landlord1 served Tenant1 a Notice to Terminate Standard (■#03). The Landlord testified that he placed the termination notice in her hand on June 30, 2021 at her residence.
20. The notice is signed for June 30, 2021 with a termination date of September 30, 2021.

Analysis

21. As per Section 18 of the *Residential Tenancies Act, 2018*, a landlord can give a three month termination notice in a monthly lease, it is to be served before the first day of the rental period, and dated for the end of a rental period, See below:

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

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

.....

(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.

.....

22. The landlord served the document in accordance with Section 35 of the *Residential Tenancies Act, 2018*, by placing it in tenant1's hand. See below:

(2) A notice or other document under this Act other than an application under section 42 shall be served by a landlord on a tenant by

(a) giving it personally to the tenant;

.....

23. The notice follows the guidelines outlined in the *Act* and is a valid termination notice.

24. The tenant's should have vacated the property on September 30, 2021.

Decision

25. The landlord's claim for an order for vacant possession of the rental premises succeeds.

26. The tenants should have vacated the property on September 30, 2021. The tenants are to vacate the property immediately.

27. The tenants 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.

Summary of Decision

28. The landlords are entitled to:

- Rent owing \$1,248.60
- A payment of a daily rate of rent beginning October 21, 2021, and continuing until the landlords regain possession of the property; in the amount of \$24.48 per day.
- An order for vacant possession of the rented premises
- The tenants shall also pay to the landlords any costs charged to the landlords by the Office of the High Sheriff should the landlords be required to have the Sheriff enforce the attached Order of Possession

October 25, 2021

Date

