

Residential Tenancies Tribunal

Application 2022 No. 58NL

Decision 22-0058-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:48 PM on 26 April 2022 via teleconference.
2. The applicant, [REDACTED], was represented at the hearing by [REDACTED], hereinafter referred to as "the landlord". The respondent, [REDACTED], hereinafter referred to as "the tenant", was represented at the hearing by [REDACTED] ("[REDACTED]").

Issues before the Tribunal

3. The landlord is seeking an order for vacant possession of the rented premises.

Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case are sections 18, 34 and 35 of the *Residential Tenancies Act, 2018*.

Issue 1: Vacant Possession of Rented Premises

Relevant Submissions

The Landlord's Position

6. The landlord stated that she had entered into a 1-year, fixed-term lease, with the tenant on 01 July 2020. The agreed rent is set at \$965.00 per month and the landlord stated that the tenant had paid a security deposit of \$372.00.

7. With her application the landlord submitted a copy of a termination notice (■■■ #1) which she stated was sent to the tenant, by registered mail, on 20 December 2021. That notice was issued under section 18 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 31 March 2022. The landlord stated that the tenant did not collect that notice and it was eventually returned to her by the post office.
8. The tenant has not moved out, as required, and the landlord is seeking an order for vacant possession of the rented premises.

The Tenant's Position

9. ■■■ stated that the tenant is in a wheelchair, and that although he did receive a notice card from the post office informing him that they were holding mail for him, he was physically unable to collect it. ■■■ did state, though, that both she and the tenant had been informed that the landlord was seeking possession of the rented premises.

Analysis

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

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

11. According to section 35 of the *Act*, a landlord is permitted to serve notices to a tenant by registered mail, and where that mail is not collected by a tenant, it is considered to have been served on the 5th day after mailing, so long as it is properly addressed and sent. The landlord submitted a photograph of the envelope the notice was mailed in, showing that it was properly addressed, and the tracking history shows that it had indeed been sent to the tenant's mailbox. As it was sent on 20 December 2021, it is considered to have been served on the tenant on 25 December 2021.
12. Section 18 of the *Act* allows a landlord to terminate a rental agreement, on 3 month's notice, without having to provide reasons to either the tenant or this Board.
13. As the termination notice was properly served and as it meets all the requirements set out in section 18 and 34 of the *Act*, I find that it is a valid notice.

Decision

14. The landlord's claim for an order for vacant possession of the rented premises succeeds.
15. 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.

28 April 2022

Date



John R. Cook
Residential Tenancies Tribunal