

Residential Tenancies Tribunal

Applications: 2022 No. 0330 NL

Decision 22-0330-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 11:16AM on 13 June 2022 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the tenant”, participated in the hearing.
3. The respondent, [REDACTED] of [REDACTED] hereinafter referred to as “the landlord”, did not participate in the hearing.
4. An affidavit of service was provided by the tenant (T#1) confirming that the landlord was served by email of the claim against him. The tenant testified that she knew to use the email in question because it was specified on the notice of termination that is the subject of this dispute.
5. The details of the dispute were presented as a verbal agreement for a month-to-month rental, with rent set at \$750.00. The tenant testified that she paid a security deposit of \$375.00 prior to taking occupancy of the rental unit on 01 April 2015.
6. In a proceeding under the *Residential Tenancies Act*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. The standard of proof, in these proceedings, is referred to as the balance of probabilities which means the applicants have to establish that their account of events is more likely than not to have happened.

Issues before the Tribunal

7. The tenant is seeking the validity of a termination notice determined.

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018* (the *Act*).
9. Also relevant and considered in this case is section 18 of the *Act* and rule 29 of *The Rules of the Supreme Court, 1986*.

Preliminary Matters

10. The landlord was not present or represented at the hearing and I was unable to reach him by telephone. This Tribunal's policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*.
11. 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.
12. As the landlord was properly served, and any further delay in these proceedings would unfairly disadvantage the tenant, I proceeded with the hearing in his absence. Of note, is that the tenant testified that she interacted with the landlord on two occasions in June 2022 and that each time, she provided him with information regarding the dispute resolution hearing scheduled for 13 June 2022.

Issue 1: Validity of Termination Notice Determined

Relevant Submissions

13. The tenant provided a copy of the termination notice that was issued to her on 26 August 2021 (T#2). The notice stated a move out date of 30 April 2022 but did not cite a section of the *Act* under which the "notice to vacate" was issued. The tenant testified that the notice was served to her by it being placed on the door to her rental unit. She further testified that she was texted that evening by the landlord's representative, [REDACTED], to "sign the notice" which she did because she is "agreeable".
14. The tenant testified that she had hoped that she could vacate the rental premises prior to the effective date of the notice, but is struggling to find new accommodations. The tenant testified that she was informed by NL Housing as she worked to secure a rental subsidy, of the potential ineligibility of the termination notice she received.
15. The tenant testified that she pays rent each month in cash by attending to locations as requested by the landlord's representative, [REDACTED].

Analysis


16. Section 18 of the *Act* allows a landlord to terminate a rental agreement on three (3) months notice without having to provide reasons to either the tenant or to this Tribunal. The validity of such a notice is determined by its compliance with any number of provisions of the *Act* - If and where a notice is found to not comply with any particular provision, the notice is deemed not valid.
17. Specific to a termination notice issued by a landlord under section 18 of the *Act*, it is required to comply with each of the following to be deemed valid:
- Timelines for issuing a notice (18(2) of the *Act*);
 - Specific details on notices issued (18(9) of the *Act*);
 - Specific details on notices issued (34 of the *Act*); and
 - Requirements for service of the notice (35 of the *Act*).
18. Regarding the Section 18 Termination Notice issued to the tenant on 26 August 2021, I note that it does not comply with the requirements for notices under section 34 of the *Act*, particularly 34(d). The full section reads as follows:
- 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.*
19. As such, I find that the termination notice issued to the tenant does not meet all requirements under the *Act* and so it is not a valid notice.

Decision

20. The termination notice issued to the tenant on 26 August 2021 is not a valid notice.

13 June 2022

Date


Jaclyn Casler
Residential Tenancies Tribunal