

Residential Tenancies Tribunal

Applications: 2022 No. 0366 NL

Decision 22-0366-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 9:15AM on 1 August 2022 via teleconference.
2. The applicant, [REDACTED], as represented by [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing.
3. The respondent, [REDACTED], hereinafter referred to as “the tenant”, did not participate in the hearing.
4. An affidavit of service was provided by the landlord (L#1) confirming that the tenant was served by registered mail of the claim against her. A copy of the tracking history was also provided showing that the package was not picked up (L#2). Subsection 42(6) of the *Residential Tenancies Act* considers items served by registered mail, to be served 5 days after the registered mail is sent.
5. The details of the claim were presented as a month-to-month rental agreement, that started recently on or about 01 April 2022. Monthly rent is \$930.00, exclusive of utilities, and a security deposit in the amount of \$325.00 was collected. A copy of the written rental agreement was not provided.
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

- The landlord is seeking an order for vacant possession.

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018* (the *Act*).
8. 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

9. The tenant was not present or represented at the hearing and I was unable to reach her by telephone. This Tribunal's policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*.
10. 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 she has been properly served.
11. As the tenant was properly served, and any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in her absence.

Issue 1: Vacant Possession Relevant Submissions

12. The landlord provided a copy of the termination notice issued on 26 April 2022 (L#3). The notice was issued under "section 18(2)(b)" of the *Act* and identified a stated move out date of 31 July 2022. The notice was served personally to the door of the rental unit on the day it was issued.
13. The landlord is seeking an order for vacant possession of the rented premises.

Analysis

14. 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.
15. 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.
16. 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:

- Rental agreement specific 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*).

17. Regarding the Section 18 Termination Notice issued to the tenant on 26 April 2022, I find that it is a valid notice because it meets all requirements set out in this section of the *Act*, and it was properly served.

Decision

18. The landlord's claim for an order for vacant possession of the rented premises succeeds.
19. 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

20. The landlord claimed \$20.00 for the expense of applying for the hearing.
21. As her claim has been successful, the tenant shall pay this hearing expense.

Summary Decision

22. The landlord is entitled to the following:
- An order for vacant possession of the rented premises.
 - An order for payment of \$20.00 for hearing expenses.
 - An order for payment of 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.

2 August 2022

Date


Jaclyn Casler
Residential Tenancies Tribunal