

Residential Tenancies Tribunal

Application 2022-No.448-NL

Decision 22-0448-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 1:48 p.m. on 20-July-2022.
2. The applicant, [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.
3. The respondent, [REDACTED], is represented by [REDACTED] (LL#01). [REDACTED] will hereinafter be referred to as “the authorized representative,” she attended by teleconference

Preliminary Matters

4. The tenant submitted an affidavit (TT#01) stating that she served the landlord personally of the notification of today’s hearing on 05-June-2022. The authorized representative confirmed receipt of service.

Issues before the Tribunal

5. The tenant is questioning the validity of the termination notice.

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 decision are the following sections of the *Residential Tenancies Act, 2018*: Section 17: Record of tenant’s payments, Section 18: Notice of termination of rental agreement, and Section 34: Requirements for notices.

Issue 1: Validity of termination notice

Tenant's Position

8. The tenant submitted the rental agreement she has with the landlord (TT#02). The agreement is for a term from 01-August-2016 until 01-August-2017; presently they are in a monthly agreement. The tenant pays \$950.00 a month rent which includes utilities. Her rental period is from the first day of the month until the last; her rent is due in full on the first day of the month. The tenant said she paid a security deposit of \$425.00 on 01-August-2016.
9. The tenant said that on 22-April-2022 she received both a notification of rental increase (TT#04) and a termination notice (TT#03).
10. The tenant said that the rental increase (TT#04) was a letter from the landlord stating that there would be an increase of \$100.00 per month, bring the monthly rent to \$1,050.00 on 01-July-2022. The letter acknowledges that there should be a six month notice however, with the significant oil increases the landlord is only giving a three month notice. The tenant disputes this increase in rent.
11. The tenant said that the termination notice (TT#03) was also in her mailbox in a separate envelope. The notice is dated 22-April-2022 and is stating that this is a 3 month notice and the landlord wants the property back on 31-July-2022, under Section 17 of the *Residential Tenancies Act*.
12. The tenant is frustrated because she has lived there for a lot of years, there are other units coming empty and she wasn't given first refusal on the empty units.
13. The tenant is questioning the validity of the termination notice.

Landlord's Position

14. The authorized representative confirms the details of the tenant's rental agreement and states that the landlord is still in possession of the security deposit.
15. The authorized representative said that the landlord gave this notice of increase in error, this tenant would not be impacted by the increase, because her agreement is being terminated.
16. The authorized representative said that the tenant is a wonderful tenant but they have plans to have renovations completed adjacent to the tenant's unit and require her to move. She acknowledges that other units have been rented by new tenants, but states that those units had been spoken for, for a while.

Analysis

17. As per Section 18 of the Residential Tenancies Act, 2018, a landlord in a monthly agreement can give a tenant 3 months' notice of termination with providing a reason to this Board or the tenant. The Act is as follows:

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.

18. Any notice must adhere to the Requirements for notices in Section 34 of the Residential Tenancies Act, 2018, as follows:

Requirements for notices

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. This notice (TT#03) stated the incorrect Section of the *Act*, it cites Section 17, which is "Record of Tenant's Payments." Under the current *Act*, a three month notice falls under

Section 18. A notice must adhere to the restrictions outlined in Section 34 and as the incorrect Section of the Act is cited, the notice is not valid.

Decision

20. The notice with a termination date of 31-July-2022, served to the tenant, is not a valid notice.

Issue 2: Hearing expenses reimbursed \$20.00

21. The tenant submitted the receipt for \$20.00 for the cost of the hearing (TT#05) and pursuant to policy 12.01, as her claim is successful, she is entitled to reimbursement of that cost from the landlord.

Summary of Decision

22. The notice with a termination date of 31-July-2022 is not a valid notice.
23. The landlord shall reimburse the tenant \$20.00 for the cost of her filing fee.

July 26, 2022

Date

Jacqueline Williams, Adjudicator
Residential Tenancies Office