

Residential Tenancies Tribunal

Application 2022 No. 0477 NL

Decision 22-0477-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 11:16PM on 20 July 2022 via teleconference.
2. The applicant, [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 properly served of the claim against her.
5. The details of the claim were presented as a situation whereby a different tenant occupying the rental premises died, and then when the landlord went to check on the property in March 2022 he discovered that the door of the rental premises was damaged and the named tenant in the dispute was residing in the rental premises. The landlord testified that he accepted \$600.00 in rent from the tenant for April 2022 but has not received any rent money since.
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. In these proceedings the standard of proof 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 landlord is seeking vacant possession of the rental premises.

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*.
9. Also relevant and considered in this case is sections 19 of the *Residential Tenancies Act, 2018*.

Preliminary Matters

10. 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*.
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 they have been properly served.
12. 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 of Rented Premises

Relevant Submissions

13. The rental premises is a duplex located at [REDACTED]. The landlord submitted a copy of a termination notice issued on 19 May 2022 with an effective date of 30 May 2022 (L#3). The notice was a standard notice of termination under Section 19 of the *Residential Tenancies Act, 2018*.
14. The landlord testified that the termination notice was served in person at the tenant's door on the day it was issued. The landlord testified that the tenant owed him \$600.00 for rent for the month of May 2022 when he served the termination notice and that he has not received any payment of rent since rent for April 2022.
15. The landlord testified that he believes the rental premises is being used as a drug house and that he has received warnings from the city regarding needles and garbage on the premises. The landlord testified that he has had to pay men to clean up, but yard debris keeps accumulating. The landlord testified that he has had multiple interactions with local police through his concerns with the tenant and the people she allows in the rental premises.

16. The landlord also testified that the tenant had the light and power turned off at the rental premises and that he had to pay to get it reconnected.
17. The landlord is seeking an order for vacant possession of the rented premises.

Analysis

18. Section 19 of the *Residential Tenancies Act, 2018* states:

Notice where failure to pay rent

19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),

...

(b) where the residential premises is

- (i) rented from month to month,***
- (ii) rented for a fixed term, or***
- (iii) a site for a mobile home, and***

the amount of rent payable by a tenant is overdue for 5 days or more, the landlord may give the tenant notice that the rental agreement is terminated and that the tenant is required to vacate the residential premises on a specified date not less than 10 days after the notice is served on the tenant.

(2) Notwithstanding subsection (1), where the tenant pays the full amount of the overdue rent, including a fee under section 15, before the date specified in the notice under paragraph (1)(a) or (b), the rental agreement is not terminated and the tenant is not required to vacate the residential premises.

19. I accept the landlord's testimony that he allowed the tenant to become a tenant after she took up occupancy in the rental premises without his knowledge. I also accept the landlord's testimony that he has not received rent in the amount of \$600.00 for the months of May 2022, June 2022 or July 2022 despite the tenant's continued occupancy in the rental premises.
20. As such, I find that the termination notice served on 19 May 2022 meets all requirements set out in this section of the *Act*, and as it was properly served, it is a valid notice.

Decision

21. The landlord's claim for an order for vacant possession of the rented premises succeeds.
22. 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.

22 July 2022

Date


Jaclyn Casler
Residential Tenancies Tribunal