

Residential Tenancies Tribunal

Application 2022-No.539-NL

Decision 22-0539-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 9:15 a.m. on 01-September-2022.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant" did not attend.

Preliminary Matters

4. The tenant was not present or represented at the hearing and there was no number provided to reach him by telephone at the start of the hearing. This Tribunal's policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. 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. The landlord submitted an affidavit with their application stating that they had served the tenant with notice of the hearing, by prepaid registered mail on 19-July-2022, the tracking number provided indicates that the package wasn't picked up and was returned to sender. The landlord stated she had spoken with the tenant and he told her that he wasn't going to attend the hearing. It is our policy to consider prepaid registered mail delivered after 5 days. Therefore, as the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in his absence.

Issues before the Tribunal

5. The landlord is seeking:
 - Vacant possession of the rental premises.
 - Hearing expenses reimbursed \$20.00

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 is the following section of the *Residential Tenancies Act, 2018*: Section 18: Notice of termination of rental agreement.

Issue 1: Vacant Possession of the Rental Premises

Relevant Submissions

8. The landlord said that they have a written monthly rental agreement with the tenant. The tenant took occupancy 01-April-2004. The landlord said that they purchased the building in June of 2021. The tenant is in a monthly contract and he currently pays \$835.00 a month. The tenant paid a security deposit of \$405.00 when he moved in and the landlord was given this deposit when they purchased the building; they are still in possession of the tenant's deposit.
9. The landlord submitted a termination notice (LL#03), it is a Section 18 notice that was dated and signed for 31- May-2022, with a termination date of 31-August-2022. The landlord said that the Resident Manager personally hand delivered the notice on 31-May-2022 to the tenant. She said that the tenant is still living there.
10. The landlord is seeking an order of vacant possession.

Analysis

11. According to Section 18 of the *Residential Tenancies Act, 2018*:

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.

12. The termination notice submitted by the landlord (LL#03) meets the requirements of the Act and is a valid notice.
13. The termination notice is valid and the tenant should have moved on 31-August-2022.

Issue 2: Hearing expenses reimbursed \$20.00

14. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#04) and pursuant to policy 12.01, is entitled to reimbursement of that cost from the tenant.

Summary of Decision

15. The tenant shall vacate the premises immediately.
16. 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.
17. The tenant shall pay to the landlord \$20.00 for the cost of the hearing application.
18. The landlord is granted an Order of Possession.

September 2, 2022

Date

Jacqueline Williams, Adjudicator
Residential Tenancies Office