

Residential Tenancies Tribunal

Applications: 2022 No. 0544NL

Decision 22-0544-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 1:49PM on 03 October 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”, participated in the hearing. A representative from [REDACTED], named [REDACTED], attended the hearing to support the tenant.
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 him on 05 August 2022. A review of the tracking history indicates that the tenant picked up this package on 08 August 2022, and the tenant confirmed the same.
5. The details of the claim were presented as a month-to-month rental agreement operating since 01 November 2022. Monthly rent is set at \$855.00, with a current promotion reducing it to \$790.00 a month. A security deposit in the amount of \$422.00 was collected in October 2022 and 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

7. The landlord is seeking the following:
 - An order for vacant possession.
 - An order for payment of rental arrears in the amount of \$859.00;
 - An order for payment of utilities in the amount of \$103.50; and
 - An order for payment of late fees in the amount of \$75.00.

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*.

Preliminary Matters

10. The landlord amended her claim at the hearing and testified that she is only seeking an order for vacant possession because there is currently a credit on the tenant's account.

Issue 1: Vacant Possession

Landlord's Position

11. The landlord provided a copy of the termination notice dated 17 June 2022 (L#2). She testified that she delivered the notice personally to the tenant on 28 June 2022 and that the stated move out date on the notice is 30 September 2022. The notice is not a standard section 18 notice, but a custom template used by the landlord that cites "section 18" of the Act. When asked to explain the 11 day delay between the notice issue date (e.g., 17 June 2022) and service date (28 June 2022), the landlord testified that she had been "out of office".
12. The landlord is seeking an order for vacant possession of the rented premises

Tenant's Position

13. The tenant testified that he resides in the rental unit with his cat and that he agreed he received the landlord's notice of termination in his mailbox on the date specified by the landlord. The tenant's support person requested guidance on what the tenant can expect going forward, and was advised to contact the tenant's case manager with the Residential Tenancies Office.

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 served to the tenant on 28 June 2022, I find that it is a valid notice because it contains all required information and it was also properly served to the tenant in accordance with the *Act*.

Decision

18. The landlord's request for an order of vacant possession is successful.
19. 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.

Issue # 2: Hearing Expenses

20. The landlord claimed the \$20.00 expense of applying for this application. As the landlord's claim has been successful, the tenant shall pay this expense.


Summary of Decision

21. The landlord is entitled to the following:

- An order for payment in the amount of \$20.00 for Hearing Expenses.
- An order for vacant possession of the rented premises.
- 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.

04 October 2022

Date


Jaclyn Casler
Residential Tenancies Tribunal