

Residential Tenancies Tribunal

Application 2022-No.621-NL
2022-No.650-NL

Decision 22-0621-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 9:15 a.m. on 15-September-2022.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondents, [REDACTED] & [REDACTED], hereinafter referred to as “the tenants” did not attend.

Preliminary Matters

4. The tenants were not present or represented at the hearing and I was unable to reach them 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 they have been properly served. The landlord stated that he had served the tenants with notice of the hearing, by prepaid registered mail, he provided the tracking number which indicates that the package was sent on 17-August-2022 and received by the tenants on 26-August-2022. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.
5. The tenants had filed a counter claim 2022-0650-NL, as they didn’t attend the hearing, this file has been dismissed.

Issues before the Tribunal

6. The landlord is seeking:
 - Rent \$1,600.00
 - Vacant possession of rental premises

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*.
8. Also relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent.

Issue 1: Rent \$1,600.00

Relevant Submissions

9. The landlord stated he has a verbal rental agreement with the tenants. They entered into this agreement starting 19-April-2022. The tenant pays \$800.00 a month and the light and power bill is included with the cost of the rent. The rental period is from the 1st day of the month until the last day; rent is due the 1st day of each month. The landlord said that the tenant paid a security deposit of \$200.00 in June 2022.
10. The landlord submitted a rent ledger (LL#01) please see details below:

Rent ledger 2022-0650-NL				
Date	Action	Amount	total	
19-Apr-22	rent due daily rate Apr 19 - 30	341.90	\$341.90	
1-May-22	rent due	800.00	\$1,141.90	
1-Jun-22		rent paid	-800.00	\$341.90
1-Jun-22	rent due	800.00	\$1,141.90	
1-Jul-22		rent paid	-800.00	\$341.90
1-Jul-22	rent due	800.00	\$1,141.90	
1-Aug-22		rent paid	-800.00	\$341.90
1-Aug-22	rent due	800.00	\$1,141.90	
1-Sep-22		rent paid	-394.00	\$747.90
1-Sep-22	rent due daily rate Sep 1 - 15	394.50	\$1,142.40	

Daily rate \$800.00 x 12 months = \$9,600.00
\$9,600.00 divided by 365 days = \$26.30 a day

11. The landlord said that the rent payments were to be made by Social Services, he said that the first two payments for April and May were given to the tenants and never paid to him. He said he contacted the tenants' worker and told them in September that he was giving the tenants an eviction and that they shouldn't pay him the full months' rent for September.
12. The landlord said that the last payment he received is the payment for \$394.00 in early September, he is seeking the full amount of rent owed.

Analysis

13. Non-payment of rent is a violation of the rental agreement. I accept the landlord's testimony and evidence that the tenant did not pay as stated.
14. The tenant shall pay the landlord the rent owed totaling \$1,142.40.

Decision

15. The landlord's claim for rent succeeds in the amount of \$1,142.40.

Issue 2: Vacant Possession of the Rental Premises

Relevant Submissions

16. The landlord submitted a termination notice (LL#02). It is on a "landlord's notice to terminate early – cause" form for failure to pay rent. The notice is signed and dated for 25-July-2022, with a termination date of 05-August-2022.
17. The landlord said that he knocked on the door and no one answered on 25-July-2022. He then posted the notice on the door.

Analysis

18. The notice was served under Section 19, of the *Residential Tenancies Act, 2018*, which 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.

.....

(4) In addition to the requirements under section 34, a notice under this section shall

(a) be signed by the landlord;

(b) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and

(c) be served in accordance with section 35.

.....

19. The tenant was in rent arrears in excess of the 5 days when the notice was served. On the date of termination, the tenant was still in arrears. The termination notice meets the requirements of the Act and is a valid notice. The notice was served in accordance of the Act.
20. The tenant should have vacated the property by 05-August-2022.

Decision

21. The landlord's claim for an order for vacant possession succeeds.
22. The tenant shall vacate the premises immediately.
23. The tenant shall pay to the landlords 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.
24. The tenant shall pay a daily rate for rent beginning 16-September-2022 of \$26.30, as per paragraph 10, until such time as the landlords regain possession of the property.

Summary of Decision

25. The tenant shall:
 - Pay the landlord \$1,142.40 for rent owed.
 - Pay a daily rate of rent beginning 16-September-2022 of \$26.30, until such time as the landlords regain possession of the property.
 - Vacate the property immediately
 - Pay to the landlords 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.

The landlord

- Will be awarded an Order of Possession.

September 22, 2022

Date

[Redacted]
Jacqueline Williams, Adjudicator
Residential Tenancies Office