

Residential Tenancies Tribunal

Application 2022-0751-NL

Decision 22-0751-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 9:16 a.m. on 12-October-2022.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as “tenant1 and tenant2” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the landlord” did not attend.

Preliminary Matters

4. The landlord was not present or represented at the hearing and when trying to reach him by phone at the start of the hearing the call went to message manager. 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 tenants submitted an affidavit (TT#01) with their application stating that they had served the landlord with notice of the hearing, electronically to his cell phone number, [REDACTED], on 16-September-2022. As the landlord was properly served, and as any further delay in these proceedings would unfairly disadvantage the tenants, I proceeded with the hearing in his absence.

Issues before the Tribunal

5. The tenants are seeking:
 - Validity of termination notice
 - 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: Validity of termination notice

Tenant's Position

8. The tenants submitted the rental agreement (TT#02) that they have with the landlord. Tenant1 said that they moved in a few days after 01-June-2022. She said that they started placing their belongings in the house on that day, however, the previous tenants were not completely moved out and still had some of their belongings in the house waiting to be moved. She said that they were able to fully move in a couple of days after.
9. Tenant1 said that they signed a year lease from 01-June-2022 until 30-May-2023. Their rent is \$1,950.00, which is due on the 1st day of the month. She said that the rent is paid up to date. Tenant1 said that they paid a security deposit of \$1,000.00 on 02-May-2022; to the best of her knowledge the landlord is still in possession of the deposit.
10. Tenant1 said that they were having issues with their washer and dryer. While they were on vacation, the landlord went in to fix the issues. At that time she said that tenant2 was talking to the landlord on the phone and he said that he had left a termination notice on their kitchen counter. The termination notice (TT#03) is signed and dated for 31-August-2022 with a termination date of 30-November-2022. She said that they were so upset they came back from vacation.
11. Tenant1 said that they had a good relationship with the landlord and she believes that the notice was given because they complained about the issues with the washer and dryer. She said that the landlord said he was planning on doing up the house and selling it.
12. Tenant1 said she is in the market for a new house and has not seen this house listed.
13. Tenant1 questioned if he could terminate the agreement that was signed for a year.

Analysis

14. Section 18.2 of the *Residential Tenancies Act, 2018*, 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.

15. Tenant1's testimony (paragraph 9) and the submitted rental agreement (TT#02), both state that the tenants have a one year term rental agreement with the landlord ending on 30-May-2023. As shown above in Section 18.2.C a notice can only be given for the **end** of the **term** which in this case is 30-May-2022. A landlord in a term agreement can only terminate that agreement before the end of the term if there is cause.
16. Based on the evidence and legislation, I find that the notice is not valid.

Decision

17. The notice with a termination date of 30-November-2022 is not valid.

Issue 2: Hearing expenses reimbursed \$20.00

18. The tenants submitted the receipt for \$20.00 for the cost of the hearing (LL#04) and pursuant to policy 12.01, as their claim has been successful, they are entitled to reimbursement of that cost from the landlord.


Summary of Decision

19. The notice with a termination date of 30-November-2022 is not valid.

The landlord shall reimburse \$20.00 to the tenants for the cost of their hearing expenses.

October 13, 2022

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office