

Residential Tenancies Tribunal

Applications: 2022 No. 0922 NL

Decision 22-0922-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 9:08 AM on 03 November 2022 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing, as did the respondent [REDACTED], who is hereinafter referred to as “the tenant”.
3. The landlord submitted an affidavit of service (L#1) confirming that she served the tenant in person on 23 October 2022. The tenant confirmed service.
4. The details of the claim were presented as a month-to-month rental agreement that was formally started with a friend of the tenant in 2015. Monthly rent is \$700.00 and a security deposit was not paid by the tenant. The landlord testified that she returned the security deposit to the family of the friend of the tenant, when this individual died. The rental agreement between the landlord and tenant was verbal.
5. 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

6. The landlord is seeking an order for vacant possession.

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* (the *Act*).
8. Also relevant and considered in this case is section 18 of the *Act*.

Preliminary Matters

9. This claim was to heard as a counter claim to the tenant's application # 2022-0813-NI. However, the landlord disputed receiving service of the tenant's claim and so the tenant's claim was postponed and will be heard at a later date. The tenant is seeking:
 - Validity of termination notice determined – notice issued 01 Sept 2022
 - Refund of Rent \$1,400.00
 - Compensation paid for inconvenience \$1,500.00
10. Because the landlord's claim for an order of vacant possession relates to the same termination notice, and the stated move out date on this notice is 30 November 2022, this decision will not be released until after that date.

Issue 1: Validity of Termination Notice

Landlord's Position

11. The landlord testified that she issued the termination notice (L#2) personally to the tenant on 01 September 2022 because she wants possession of the rental unit. The notice is a standard notice under section 18 of the *Act*, and the stated move out date is 30 November 2022.
12. The landlord is seeking an order for vacant possession of the rented premises

Tenant's Position

13. The tenant testified that he acknowledged receipt of the notice on 01 September 2022 and that he does not dispute having to move. He testified that he pays rent in cash on the first of the month.

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 this Tribunal. 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.

15. Specific to a termination notice issued by a landlord under section 18 of the *Act for a month-to-month tenancy such as this dispute*, it is required to comply with each of the following to be deemed valid:

Part 1: 18(2)(b) of the *Act* requires that a termination notice be issued not less than 3 months before the end of a rental period where the residential premises is rented month to month.

Finding: The tenant in this dispute has a month to month rental agreement and rent is due monthly, at the first of the month and is paid in cash. As such, I find that a notice issued on 01 September 2022 is three months before the identified move out date of 30 November 2022.

Part 2: 18(9) of the *Act* requires that:

(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.

Finding: The landlord used the template section 18 notice made available by this tribunal and accurately filled in all required information.

Part 3: Section 34 of the *Act* requires that:

Requirements for notices

34. A notice under this Act shall

(a) be in writing in the form prescribed by the minister;

(b) contain the name and address of the recipient;

*(c) identify the residential premises for which the notice is given;
and*

(d) state the section of this Act under which the notice is given.

Finding: The landlord used the template section 18 notice made available by this tribunal and accurately filled in all required information.

Part 4: Section 35 of the *Act* identifies that permitted means for service of documents.

Finding: The landlord served the notice personally to the tenant on the day that it was issued, and the tenant acknowledged service. Personal service is permitted by section 35(2)(a) of the *Act*.


16. Accordingly, I find that the Section 18 Termination Notice issued to the tenant on 01 September 2022, is a valid notice because it meets all requirements under the *Act* and it was also properly served.

Decision

17. The landlord's claim for an order for vacant possession of the rented premises is successful.
18. That 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.

07 December 2022

Date


Jaclyn Casler
Residential Tenancies Tribunal