

Residential Tenancies Tribunal

Application 2022-No.0930-NL
2022-No.0946-NL

Decision 22-0930-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 2:04 p.m. on 30-November-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” attended by teleconference.
4. The tenant submitted an Authorized Representative form (TT#01) naming [REDACTED] as her authorized representative. [REDACTED] was off sick and could not attend the hearing.
5. The tenant verbally agreed and submitted an authorized representative (TT#04) form naming, [REDACTED], hereinafter referred to as “the authorized representative,” she attended by teleconference.

Preliminary Matters

6. The tenant submitted an affidavit (TT#02) stating that she served the landlord notice of today’s hearing in person on 17-November-2022. The landlord confirmed receipt of service.
7. The landlord submitted an affidavit (LL#01) stating that they served the tenant notice of today’s hearing in person on 17-November-2022. The tenant confirmed receipt of service.

Issues before the Tribunal

8. The tenant is seeking validity of termination notice.
9. The landlord is seeking vacant possession of the rental premises.

Legislation and Policy

10. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
11. 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

Issue 2: Vacant Possession of the Rental Premises

Landlord's Position

12. The landlord said that they have a written monthly rental agreement (LL#02) with the tenant. The tenant pays \$720.00 rent on the first day of each month. She paid a security deposit of \$300.00 on 07-April-2020.
13. The landlord said that when the tenant first came into their housing she was receiving support from [REDACTED]. She believes that the tenants support staff would have assisted her with her lease agreement and the details within.
14. The landlord submitted a termination notice (LL#03), it is a Section 18 notice that was dated and signed for 27-July-2022 with a termination date of 31-October-2022. The landlord said that they posted the notice on the door on 27-July-2022.
15. The landlord said that on 28-July-2022 the tenant sent an email questioning why she was being evicted.
16. The landlord is seeking an order of vacant possession.

Tenant's Position

17. The tenant confirms the details of the rental agreement (TT#03) as stated by the landlord.
18. The authorized representative said that the tenant is functionally illiterate and that she was unable to read the rental agreement or understand the details within. She also points out that the tenant did not sign or initial each page of the agreement. The tenant said that no one assisted her with the signing of the lease.

19. The authorized representative believes that the tenant's eviction is tied to smoking and the complaints of another tenant against this tenant. She said that the tenant does not smoke in her apartment. They provided pictures of the conditions of the smoking area provided by the landlord (TT#04) and state that the area is inaccessible for anyone with mobility issues. The authorized representative said that the tenant did not submit an order for repairs but did make a verbal complaint about the condition of the pavement in the parking lot.
20. The authorized representative gave an impassioned plea, raising concerns about seniors and homelessness, the difficulty in finding wheelchair accessible housing and that City's mandate to provide safe accessible housing is contradictory to this notice.
21. The tenant said that she didn't receive the notice of termination until 5:30 on 01-August-2022. She said her friend came into the apartment at that time and he removed it from her door. She said he told her what the paper was for. The authorized representative said that the tenant left a message at their office on the morning of 02-August-2022 with concerns about her eviction.

Analysis

22. Landlords and tenants have rights and responsibilities outlined in the *Residential Tenancies Act, 2018*, although the points raised by the tenant and her authorized representative are valid concerns, a landlord does have the right to give notice and require a tenant to surrender back the property. A Section 18 termination notice is a standard notice and the landlord is not required to explain the reason for the termination.
23. 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.

24. There was dispute around the timelines of when the notice was posted. It is reasonable to assume that the landlord did receive an email on 28-July-2022 questioning why the tenant is being evicted. It is also reasonable that the authorized representative may have received their query from the tenant on 02-August-2022. The timeline that is not disputed is that the notice was placed on the tenant's door by 01-August-2022. As per the *Act*, the notice is to be given not later than the first day of a rental period, which is 01-August-2022.
25. The termination notice submitted by the landlord (LL#02) meets the requirements of the *Act* and is a valid notice.
26. The termination notice is valid and the tenant should have moved on 31-October-2022.


Issue 3: Hearing expenses reimbursed \$20.00

27. The landlord and tenant both submitted the receipt (LL#04 & TT#05) for \$20.00 for the cost of the hearing and pursuant to policy 12.01, as the landlord has been successful in their claim, they are entitled to reimbursement of that cost from the tenant.

Summary of Decision

28. The tenant shall vacate the premises immediately.
29. The tenant shall pay to the landlord any costs charged to the landlord, by the Office of the High Sherriff, should the landlord be required to have the Sheriff enforce the attached Order of Possession.
30. The tenant shall reimburse the \$20.00 application fee to the landlord.
31. The landlord is granted an Order of Possession.

December 5, 2022
Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office