

Residential Tenancies Tribunal

Application 2022-No.1015-NL

Decision 22-1015-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 9:16 a.m. on 08-February-2023.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the tenant” did not attend.

Preliminary Matters

4. The tenant was not present or represented at the hearing and I was unable to reach him by telephone at the start of the hearing ([REDACTED]), however I left a message. 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 landlord submitted an affidavit (LL#01) with his application stating that he had served the tenant with notice of the hearing, by initially having a courier personally serve him on 13-January-2022 and then he followed up by sending the notice by prepaid registered mail ([REDACTED]) on 16-January-2023; the tracking number shows the package was delivered on 18-January-2023. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in his absence.

Issues before the Tribunal

5. The landlord is seeking vacant possession of the rental premises.

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: Vacant Possession of the Rental Premises

Relevant Submissions

8. The landlord said that he has a verbal monthly rental agreement with the tenant. He said that they are friends and initially in 2010 the tenant moved in with him. In 2011 the landlord was mostly living in another town and in 2012, as the tenant was on income support they entered a verbal agreement and made arrangements for rent to be paid. Their rental agreement is for a monthly term, from the first day of each month to the last. Rent is due in full on the first day of the month. Initially the tenant payed \$450.00 per month, currently rent is for \$500.00 a month which includes the cost of electricity. The tenant did not pay a security deposit.
9. The landlord initially gave the tenant a handwritten notice on 06-July-2022. The tenant said he wasn't going to leave, so the landlord completed a Landlord's notice to terminate form and gave this to the tenant the following day. The landlord also told Income Support not to pay rent after October because the tenant's rental agreement would be terminated the end of October. He said the last payment of rent was 01-October-2022. He said he isn't interested in the payment of rent, he just wants his property back.
10. The landlord submitted a termination notice (LL#02), it is a Section 18 notice that was dated and signed for 07-July-2022 with a termination date of 31-October-2022. The landlord stated he gave it to the tenant personally on 07-July-2022.
11. The landlord is seeking an order of vacant possession.

Analysis

12. 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.*

13. The termination notice submitted by the landlord (LL#02) meets the requirements of the Act and is a valid notice.

14. The termination notice is valid and the tenant should have moved on 31-October-2022.

Summary of Decision

- 15. The tenant shall vacate the premises immediately.
- 16. 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.
- 17. The landlord is granted an Order of Possession.

February 17, 2023

Date

Jacqueline Williams, Adjudicator
Residential Tenancies Office