

Residential Tenancies Tribunal

Applications: 2022 No. 1103 NL

Decision 22-01103-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 11:03 AM on 10 January 2023 via teleconference.
2. The applicant, [REDACTED], as represented by [REDACTED] and [REDACTED], hereinafter referred to as "landlord1" and "landlord2", respectively participated in the hearing.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as "tenant1" and "tenant2" participated in the hearing. They were supported by [REDACTED], from the [REDACTED] and hereinafter referred to as the "tenants' representative" also participated in the hearing.
4. An affidavit of service was provided by the landlord (L#1) confirming that the tenants were served personally at their place of residence on 24 December 2022. Tenant1 acknowledged service.
5. The details of the claim were presented as a month-to-month agreement that started 09 September 2022 for which a written rental agreement was provided. The landlord noted that the tenants previously resided in a different unit. Monthly rent is set at \$600.00, including heat, lights, snow cleaning and a \$300.00 security deposit was transferred over from their previous rental unit.
6. 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

- 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 19 of the *Act*.

Preliminary Matters

9. The first issue I had to determine was that of jurisdiction. The tenants' representative asked why the landlords' rental unit was not limited to Indigenous persons because its construction would have been funded by an Indigenous funding stream. Landlord1 testified that the housing occupied by the tenants is housing available to all persons, and is not limited to "Indigenous people of Labrador" as is stated in the organization's objective. Consequently, landlord1 argued that the *Residential Tenancies Act* applies and the Tribunal has jurisdiction. I accepted this argument and proceeded with the hearing.

Issue 1: Vacant Possession

Landlord's Position

10. The rental premises is located at [REDACTED] [REDACTED]. Landlord2 referred to a termination notice on file (L#3) and testified that she wished for the notice to be tested under section 19 of the *Act*. The notice was also issued under section 21, Premises Uninhabitable and section 22 of the *Act*, Failure to keep the Premises Clean.
11. Landlord2 testified that the notice was hand delivered on the day it was issued, 19 December 2022 and that the tenants owed \$600.00 in rent on that day. Landlord2 submitted a copy of the rental ledger (L#4), which shows that no rent was received by the stated move out date of 30 December 2022. The landlords are seeking an order for vacant possession of the rented premises because arrears remain on the account.

Tenant's Position

12. Tenant1 agreed that she owes \$1,200.00 in rent and testified that they did not pay because they had no money. Tenant2 testified that he can pay all monies owing by the end of January 2022.

Analysis

13. Section 19 of the *Residential Tenancies Act, 2018* 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.

(2) Notwithstanding subsection (1), where the tenant pays the full amount of the overdue rent, including a fee under section 15, before the date specified in the notice under paragraph (1)(a) or (b), the rental agreement is not terminated and the tenant is not required to vacate the residential premises.

14. According to the landlord's records, on 19 December 2022, the day the termination notice was issued, the tenant was in arrears in the amount of \$600.00 and arrears remained past the stated move out date of 30 December 2022. This means the notice was issued for a valid reason. I therefore find that the notice meets all the requirements set out in this section of the Act, and as it was properly served, it is a valid notice.

Decision

15. The landlord's claim for an order for vacant possession of the rented premises succeeds.

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.

13 January 2023

Date


Jaclyn Casler
Residential Tenancies Tribunal