

Residential Tenancies Tribunal

Application 2023 No. 112NL

Decision 22-0112-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:16 AM on 20 February 2023 via teleconference.
2. The applicants, [REDACTED] and [REDACTED], hereinafter referred to as “the landlords”, participated in the hearing. The respondent, [REDACTED], hereinafter referred to as “the tenant”, was not in attendance.

Issues before the Tribunal

3. The landlords are seeking the following:
 - An order for a payment of rent in the amount of \$1100.00, and
 - An order for vacant possession of the rented premises.

Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case are sections 18 and 34 of the *Residential Tenancies Act, 2018*, and rule 29 of the Rules of the Supreme Court, 1986.

Preliminary Matters

6. The tenant was not present or represented at the hearing and I was unable to reach her by telephone at the start of the hearing. 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 she has been properly served. With their application, the landlords submitted an affidavit stating that the tenant was personally served with the application and notice of the hearing on 05 February 2023 and she has had 14 days to provide a response. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlords, I proceeded with the hearing in his absence.

7. The landlords amended their application at the hearing and stated that they are now only seeking \$750.00 in rent.

Issue 1: Vacant Possession of Rented Premises

Relevant Submissions

8. The landlords stated that they had entered into a monthly rental agreement with the tenant on 01 June 2022, and a copy of that agreement was submitted with their application. The agreed rent is set at \$1100.00 per month, and it is paid on the tenant's behalf by 2 different governmental agencies—Income Support pays \$389.00, and Newfoundland Labrador Housing pays the remaining \$711.00.
9. The landlords stated that rent was paid and up-to-date for the period ending 31 January 2023, but for the month of February 2023, the landlords have only received 1 payment of \$350.00, from Income Support. They are seeking an order for a payment of the remaining \$750.00.

Analysis

10. I accept the landlords' claim that they have only received \$350.00 in rent for the month of February 2023. As the landlords are also seeking an order for vacant possession of the rented premises, I find that they are entitled to a payment of rent to the date of the hearing, and a per diem thereafter.
11. I calculate the amount owing to be \$373.20 ($\$1100.00 \text{ per month} \times 12 \text{ months} = \$13,200.00 \text{ per year} \div 365 \text{ days} = \$36.16 \text{ per day} \times 20 \text{ days} = \723.20 less the payment of \$350.00 received from Income Support)).

Decision

12. The landlord's claim for a payment of rent succeeds in the amount of \$373.20.
13. The tenant shall pay a daily rate of rent in the amount of \$36.16, beginning 21 February 2023, and continuing to the date the landlord obtain vacant possession of the rented premises.

Issue 2: Vacant Possession of Rented Premises

Relevant Submissions

14. With their application the landlords submitted a copy of a termination notice which they stated they had taped to the tenant's door on 30 October 2022. That notice was issued under section 18 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 31 January 2023.
15. The tenant has not moved out, as required, and the landlords are seeking an order for vacant possession of the rented premises.

Analysis

16. The relevant subsections of s.18 of the *Residential Tenancies Act, 2018* state:

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*

...

(b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month; and

...

(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

17. Section 18 of the *Act* allows a landlord to terminate a rental agreement, on 3 month's notice, without having to provide reasons to either the tenant or this Board.

18. As the termination notice was properly served and as it meets all the requirements set out in section 18 and 34 of the *Act*, I find that it is a valid notice.

Decision

19. The landlord's claim for an order for vacant possession of the rented premises succeeds.
20. The tenant shall pay to the landlords any costs charged to the landlords by the Office of the High Sheriff should the landlords be required to have the Sheriff enforce the attached Order of Possession.

Issue 3: Security Deposit

21. The landlords stated that the tenant had paid a security deposit of \$700.00 on 01 June 2022, and receipt of that deposit is acknowledged in the submitted rental agreement. As the landlords' claim has been successful, that deposit shall be disposed of as outlined in this decision and attached order.

Issue 4: Hearing Expenses

22. The landlords paid a fee of \$20.00 to file this application, and a receipt for that payment is on file. They also claimed that they had paid \$80.00 to hire a process server, and they had spent \$47.51 at Staples. Those receipts were not submitted with the application. As the landlords' claim has been successful, the tenant shall pay their receipted hearing expense—\$20.00.

Summary of Decision

23. The landlords are entitled to the following:

a) Rent Owing	\$373.20
b) Hearing Expenses.....	\$20.00
c) Total.....	<u>\$393.00</u>

- An order for vacant possession of the rented premises,
- A payment of a daily rate of rent in the amount of \$36.16, beginning 21 February 2023 and continuing to the date the landlord obtains possession of the rental unit,

- The tenants shall also 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.

24 February 2023

Date


John R. Cook
Residential Tenancies Tribunal