

Residential Tenancies Tribunal

Application 2023 No. 160NL

Decision 22-0160-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 AM on 22 March 2023 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing. The respondent, [REDACTED], hereinafter referred to as “the tenant”, was not in attendance.

Issues before the Tribunal

3. The landlord is seeking 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 commencement 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 the claim and notice of the hearing 10 clear days prior to the hearing date and, where the respondents fail 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 with his application stating the tenant was served with the application, by registered mail, on 24 February 2023, and the associated tracking history shows that the tenant never did collect that mail. Section 42.(6) of the *Residential Tenancies Act, 2018* states that where an application is sent by registered mail, it is considered to have been served on the fifth day after mailing—in this case, on 01 March 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 her absence.

Issue 1: Vacant Possession of Rented Premises

Relevant Submissions

7. The landlord stated that he had entered into a monthly rental agreement with the tenant approximately 2 years ago. The current rent is set at \$1400.00 per month, \$1150.00 of which is paid on the tenant's behalf by the Department of Advanced Education and Skills. The landlord also stated that the tenant had paid a \$400.00 security deposit.
8. With his application, the landlord submitted a copy of a termination notice which he stated he had personally delivered to the tenant on 01 November 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.
9. The tenant has not moved out, as required, and the landlord is seeking an order for vacant possession of the rented premises.

Analysis

10. 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*

11. 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.
12. 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


13. The landlord's claim for an order for vacant possession of the rented premises succeeds.
14. 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.

Issue 2: Hearing Expenses

15. The landlords paid a fee of \$20.00 to file this application, and a receipt for that payment is on file. As the landlord's claim has been successful, he is authorized to retain \$20.00 of the security deposit as reimbursement for that cost.

27 March 2023

Date


John R. Cook
Residential Tenancies Tribunal