

Residential Tenancies Tribunal

Applications: 2023 No. 0201 NL

Decision 23-0201-00

Jaclyn Casler
Adjudicator

Introduction

1. The hearing was called at 2:00 PM on 03 April 2023 via teleconference.
2. The applicant, [REDACTED] as represented by [REDACTED] hereinafter referred to as "the landlord" participated in the hearing. The respondent, [REDACTED], did not participate and was not represented at the hearing.
3. The landlord submitted an affidavit of service (L#1) confirming that he served the tenant by registered mail, Canada post and to the door on 07 March 2023. A review of the tracking number provided confirms that this document was collected on 13 March 2023.
4. The details of the claim were presented as an originally month-to-month rental agreement that started in October 2019 (L#3). Current rent is set at \$263.00 due at the first of the month, and a security deposit was not collected.
5. 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

6. 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 18 of the *Act*.

Preliminary Matters

9. The tenant was not present or represented at the hearing and I was unable to reach her by telephone at [REDACTED]. This Tribunal's policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*.
10. 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.
11. As the tenant was properly served, and any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in her absence.

Issue 1: Vacant Possession

Relevant Submissions

12. The landlord is seeking vacant possession of the rental premises located at [REDACTED] [REDACTED]. He referred to the termination notice submitted (L#4) and stated that it was posted to the door, emailed and served by registered mail on 20 December 2022, the day it was issued. The landlord testified that he scratched out the type written issue date of 09 December 2023 from the termination notice and initialed the change to the issued date of 20 December 2023. The notice is a standard template notice issued by this tribunal with a stated move out date of 31 March 2023.

Analysis

13. Section 18 of the *Act* allows a landlord to terminate a rental agreement on three (3) months notice without having to provide reasons to either the tenant or this Tribunal. The validity of such a notice is determined by its compliance with any number of provisions of the *Act*. If and where a notice is found to not comply with any particular provision, the notice is deemed not valid.
14. Specific to a termination notice issued by a landlord under section 18 of the *Act* for a month-to-month tenancy such as this dispute, it is required to comply with each of the following to be deemed valid:

Part 1: 18(2)(b) of the *Act* requires that a termination notice be issued not less than 3 months before the end of a rental period where the residential premises is rented month to month.

Finding: The tenant in this dispute has a month-to-month with rent due at the first of the month. As such, I find that a notice issued on 20 December 2022 is more than three months before the identified move out date of 31 March 2023.

Part 2: 18(9) of the *Act* requires that:

- (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.*

Finding: The landlord used the template section 18 notice made available by this tribunal and accurately filled in all required information.

Part 3: Section 34 of the *Act* requires that:

Requirements for notices

34. A notice under this Act shall

- (a) *be in writing in the form prescribed by the minister;*
- (b) *contain the name and address of the recipient;*
- (c) *identify the residential premises for which the notice is given; and*
- (d) *state the section of this Act under which the notice is given.*

Finding: The landlord used the template section 18 notice made available by this tribunal and accurately filled in all required information.

Part 4: Section 35 of the *Act* identifies that permitted means for service of documents.

Finding: The tenant was served by three ways, including posting the notice to the door which is an acceptable means of service in accordance with 35(2)(c) of the Act.

15. Accordingly, I find that the Section 18 Termination Notice issued to the tenant on 20 December 2022 is a valid notice when it was issued because it meets all requirements under the Act and it was also properly served.

Decision

16. The landlord is entitled to an order for vacant possession of the rented premises.
17. The tenant 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.

Issue 2: Hearing Expenses

18. The landlord claimed the \$20.00 expense of applying for this hearing. As his claim has been successful, the tenant shall pay this expense.

Summary of Decision

19. The landlord is entitled to the following:
 - An order for payment from the tenant in the amount of \$20.00 for hearing expense.
 - An order for vacant possession of the rented premises.
 - The tenant 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.

12 April 2023

Date

Jaclyn Casler
Residential Tenancies Tribunal