

Residential Tenancies Tribunal

Application 2023-0251-NL

Decision 23-0251-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:13 a.m. on 1-June-2023.
2. The applicant, [REDACTED] represented by [REDACTED] hereinafter referred to as "the landlord", participated in the hearing. The respondent, [REDACTED] hereinafter referred to as "the tenant", did not participate in the hearing. The hearing was held via teleconference.

Preliminary Matters

3. I tried to reach the tenant via telephone but not answer. I was unable to leave a message as no active voicemail.
4. The rental unit is an apartment building whereby the tenant resides on the third floor. There is a written month to month rental agreement that commenced on 1-May-2022. Rent is \$878.00 per month and is due on the first of the month. A security deposit of \$645.00 was paid on 26-April-2022 and is in the possession of the landlord.
1. The landlord submitted an affidavit (LL#1) stating that they served the tenant with the notice of hearing on 19-April-2023 via prepaid registered mail [REDACTED] Canada Post Tracking shows that the envelope was never picked up. Section 35(5) of the *Residential Tenancies Act, 2018* states the registered mail shall be considered to have been served on the fifth day after mailing. 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. 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. In accordance with the *Residential Tenancies Act, 2018* this is good service.

Issues before the Tribunal

5. The landlord is seeking:
 - Vacant possession of rental premises
 - Hearing expenses \$23.44

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 are the following sections 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 submitted a copy of a termination notice issued to the tenant on their company's letterhead (LL#2). It was dated for 22-February-2023 under section 18; Notice of termination of rental agreement to vacate the premises by 31-May-2023.

Analysis

9. The notice was served under Section 18, of the *Residential Tenancies Act, 2018*, which states:

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.

10. The termination notice submitted by the landlord meets the requirements of the *Act* and is a valid notice.

11. I find the tenant should have vacated the premises by 31-May-2023

Decision

12. The landlord's claim for vacant possession succeeds.

Issue # 2: Hearing expenses \$23.44

13. The landlord paid a fee of \$20.00 to file the application (LL#3). Also, the landlord paid \$13.44 for postal costs to send service document to the tenant (LL#4). As the landlord's claim has been successful, the tenant shall pay the \$23.44 fee.

Decision

14. The landlords claim for hearing expenses succeeds in the amount of \$23.44.

Summary of Decision:

15. The tenant shall:


Pay the landlord \$23.44 as follows:	
Hearing expenses	\$23.44
Total	<u>\$23.44</u>

16. 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 will be awarded an Order of Possession.

June 6, 2023
Date



Pamela Pennell, Adjudicator
Residential Tenancies Office