

Residential Tenancies Tribunal

Application 2023-0356-NL

Decision 23-0356-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:44 p.m. on 5-June-2023.
2. The applicant, [REDACTED] hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED] hereinafter referred to as “the tenant” did not attend.

Preliminary Matters

4. The tenant did not attend the hearing. I was unable to call her as the landlord did not have a telephone number for her.
5. The landlord submitted an affidavit (LL#1) with his application stating that he had served the tenant with the notice of hearing on 6-May-2023 personally at the residential premises. 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. 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.
6. The landlord states that there was a verbal month to month rental agreement. The tenant moved into the fourplex, unit 4 on 1-July-2020 and rent is \$450.00 per month due on the first of each month. The landlord states that he never collected a security deposit.

Issues before the Tribunal

7. The landlord is seeking:
 - a. Vacant Possession of rented premises

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
9. Also relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent.

Issue 1: Vacant Possession of the Rented Premises

Relevant Submissions:

10. The landlord submitted a termination notice under Section 19: failure to pay rent. The notice is signed and dated for 14-April-2023, with a termination date of 1-May-2023 (LL#2).

Landlord's Position:

11. The landlord testified that the tenant has not paid rent since 1-February-2023. He states that he is not seeking rent paid or any other costs, he just wants his unit back so he can mitigate his losses and start a new tenancy. He states that he do not have a written rental ledger and he feels that he has given the tenant enough time to vacate the premises.

Analysis

12. I accept the landlord's testimony that the tenant has not paid rent for the months of March, April, May and June. The landlord confirmed verbally that he served the termination notice personally to the tenant at the residential premises on 14-April-2023. The tenant did not attend the hearing thus she was unable to dispute the landlord's claim.
13. Section 19 of the *Residential Tenancies Act, 2018* states:
 - a. **Notice where failure to pay rent**
 - b. **19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),**
 - i. **(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**
 - c. **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.

i. (4) In addition to the requirements under section 34, a notice under this section shall

(a) be signed by the landlord;

(b) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and

(c) be served in accordance with section 35.

14. The tenant was in rent arrears in excess of the 5 days when the notice was served. On the date of termination, 1-May-2023 the tenant was still in arrears. The termination notice meets the requirements of the Act and is a valid notice.

15. I find the tenant should have vacated the property by 1-May-2023.

Decision

16. The landlord's claim for an order for vacant possession succeeds.

17. The tenant shall vacate the premises immediately

18. 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.

Summary of Decision

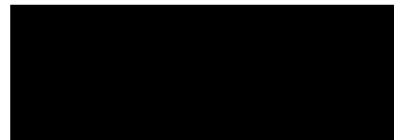
19. The tenant shall vacate the property immediately

20. 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.

21. The landlord will be awarded an Order of Possession.

June 6, 2023

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office