



## Residential Tenancies Tribunal

Application 2023-0478-NL

Decision 23-0478-00

Pamela Pennell  
 Adjudicator

### Introduction

1. Hearing was called at 11:11 a.m. on 4-July-2023.
2. The applicant [REDACTED]  
 [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 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. The landlord submitted an affidavit with their application stating that they had served the tenant with notice of the hearing, electronically by emailing to; [REDACTED] on 13-June-2023 (LL#1). The landlord provided proof of sent email to the address provided on rental agreement. In accordance with the *Residential Tenancies Act, 2018* this is good service. 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.
5. There is a written fixed term rental agreement which commenced on 15-August-2022. Rent is \$1250.00 per month due on the first of each month. The landlord's stated that a security deposit was paid on 5-August-2022 in the amount of \$937.50. The security deposit is in the possession of the landlord.

## Issues before the Tribunal

6. The landlord is seeking:
  - o Vacant Possession of rented premises

## 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*.
8. 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:

9. The landlord's representative submitted a termination notice under Section 19: failure to pay rent. The notice is signed and dated for 5-May-2023, with a termination date of 16-May-2023 (LL#2).

### Landlord's Position:

10. The landlord's representative testified that the tenant has an outstanding rental balance of \$2134.00 dating back to 19-January-2023 (LL#3). The landlord's representative feels that the tenant should have vacated the premises by 16-May-2023.

## Analysis

11. 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;**

<sup>3</sup>  
(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.*

12. The tenant was in rent arrears in excess of the 5 days when the notice was served. On the date of termination, 16-May-2023, the tenant was still in arrears. The termination notice meets the requirements of the *Act* and is a valid notice.

13. I accept the landlord's testimony that the tenant has outstanding rental arrears since 19-January-2023 and the tenant was not available to dispute the claim

14. I find the tenant should have vacated the property by 16-May-2023.

#### **Decision**

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

16. The tenant shall vacate the premises immediately

17. 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.

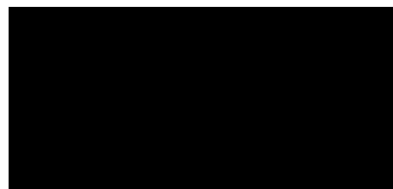
#### **Summary of Decision**

18. The tenant shall vacate the property immediately

19. 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.

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

July 17, 2023  
\_\_\_\_\_  
Date



Pamela Pennell, Adjudicator  
Residential Tenancies Office