

## Residential Tenancies Tribunal

Application 2023-0519-NL

Decision 23-0519-00

Pamela Pennell  
Adjudicator

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### Introduction

1. Hearing was called at 11:13 a.m. on 22-June-2023.
2. The applicants, [REDACTED] hereinafter referred to as "the landlords" 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 him as the landlord did not have a telephone number for her.
5. The landlords submitted an affidavit (LL#1) with their application stating that they had served the tenant with the notice of hearing on 10-June-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 he has been properly served. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlords, I proceeded with the hearing in his absence.
6. The landlord's state that there is a written fixed term rental agreement which commenced on 14-April-2021. Rent is \$850.00 per month due on the first of each month. The landlord's state that a security deposit was paid on 14-April-2021 in the amount of \$425.00. The security deposit is in the possession of the landlords.

### Issues before the Tribunal

7. The landlords are 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's submitted a termination notice under Section 19: failure to pay rent. The notice is signed and dated for 2-June-2023, with a termination date of 13-June-2023 (LL#2).

#### Landlord's Position:

11. The landlord's testified that the tenant has not paid rent in full since 15-November-2022 with an outstanding balance of \$3,765.58. They presented a rental ledger to support their claim (LL#3). The landlord's feel that the tenant should have vacated the premises by 13-June-2023.
12. The landlord's also state that they would like to seek rent paid in the amount of \$3,765.58.

### Analysis

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 <sup>3</sup> 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, 13-June-2023 the tenant was still in arrears. The termination notice meets the requirements of the Act and is a valid notice.
15. I accept the landlord's testimony that the tenant has not paid rent in full since 15-November-2022 and the tenant was not available to dispute the claim
16. I am unable to deal with any outstanding rent at this time as the landlord's did not seek rent paid in their application.
17. I find the tenant should have vacated the property by 13-June-2023.

#### **Decision**

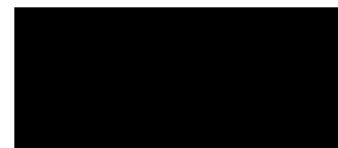
18. The landlord's claim for an order for vacant possession succeeds.
19. The tenant shall vacate the premises immediately
20. The tenant shall pay to the landlord any costs charged to the landlord by the Office of the High Sheriff should the landlord be required to have the Sheriff enforce the attached Order of Possession.

#### **Summary of Decision**

21. The tenant shall vacate the property immediately
22. 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.
23. The landlord will be awarded an Order of Possession.

July 12, 2023

Date



Pamela Pennell, Adjudicator  
Residential Tenancies Office