



Residential Tenancies Tribunal

Application 2023-No.0532 -NL Decision 23-0532-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 1:55 p.m. on 17-July-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.
4. The landlord completed an authorized representative form (LL#01), she was represented by [REDACTED]

Preliminary Matters

5. 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 [REDACTED]. 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 (LL#01) with her application stating that she had served the tenant with notice of the hearing, personally on 06-July-2023. 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.

Issues before the Tribunal

6. The landlord is seeking vacant possession of rental 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 is the following section of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent.

Issue 1: Vacant Possession of the Rental Premises

Relevant Submissions

9. The landlord stated that the tenant was without a place to stay, two years ago she allowed her to move into her basement for a few days. The tenant began her occupancy in June 2021. Arrangements were made for rent to be paid to the landlord on the tenant's behalf from [REDACTED]. Each month the landlord received \$735.00 rent on the tenant's behalf. The rental period is from the first day of the month until the last. She explained that each month she would return \$235.00 to the tenant or purchase groceries in that amount for the tenant. The landlord did receive a security deposit, however, the tenant had told her she was moving so the landlord returned it to her. The tenant did not subsequently move.
10. The landlord said that the last rent payment was received the end of December for the month of January. The tenant's rent therefore was paid up to and including January 31, 2023. Since that time she has received no further rent payments.
11. The landlord submitted a termination notice (LL#03). It is on a "landlord's notice to terminate early – cause" form for failure to pay rent. The notice is signed and dated for 06-June-2023 with a termination date of 17-June-2023. The notice contains a written reminder at the bottom, stating that she had served this notice to the tenant on 06-June-2023 and that the tenant followed her up the stairs saying that the notice was a fake.

Analysis

12. The notice was served under Section 19, of the *Residential Tenancies Act, 2018*, which states:

Notice where failure to pay rent

19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),

.....

(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

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.

.....

(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.

.....

13. The tenant was in rent arrears in excess of the 5 days when the notice was served. On the date of termination, the tenant was still in arrears. The termination notice meets the requirements of the Act and is a valid notice. The notice was served in accordance of the Act.

14. The tenant should have vacated the property by 17-June-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 landlords 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
- Pay to the landlords 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.

The landlord:

- Will be issued an Order for Possession

July 24, 2023

Date

Residential Tenancies Office