



Residential Tenancies Tribunal

Application 2023-0610-NL

Decision 23-0610-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:48 p.m. on 7-August-2023.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord", participated in the hearing.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant", participated in the hearing.
4. The hearing was held via teleconference.

Preliminary Matters

5. The landlord submitted an affidavit with her application stating that she had served the tenant with the notice of hearing personally on 18-July-2023 at the residential premises (LL#1). The respondent confirmed receiving the document. In accordance with the *Residential Tenancies Act, 2018* this is good service.
6. There was a written month to month agreement which commenced sometime in 2013. Rent is \$600.00 and is due on the first of the month. A security deposit was never paid.

Issues before the Tribunal

7. The landlord is seeking:
 - Vacant possession of the rented premises
 - Hearing expenses \$20.00

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 decision² are the following sections of the *Residential Tenancies Act, 2018*: Section 19; notice where failure to pay rent.

Issue # 1: Vacant Possession of the Rental Premises

Relevant Submissions

10. The landlord submitted a copy of 2 separate termination notices; (1) Standard termination notice dated 26-June-2023 to vacate on 30-September-2023 (LL#1) and (2) an early termination notice with cause dated 26-June-2023 to vacate on 02-July-2023 (LL#2).

Analysis

11. The standard termination notice could not be addressed during the hearing as it has a termination date for the 30-September-2023. Vacant possession cannot be legally determined by the residential tenancies board when the termination date is in the future.
12. The early with cause termination notice did not identify the section of *the Act* under which it was given.
13. Section 34 of the *Residential Tenancies Act, 2018* states;

Requirements for Notices

34. A notice under this Act shall

- a) be in writing in the form prescribed by the minister;*
- b) contain the name and address of the recipient;*
- c) identify the residential premises for which the notice is given; and*
- d) state the section of this Act under which the notice is given*

14. I find that the early notice with cause did not meet section 34.(d) of *the Act* and as such it is not a valid notice.

Decision

15. I find that the landlord's claim for vacant possession does not succeed.

Issue # 2: Hearing Expenses \$ 20.00

16. The landlord paid \$20.00 to file the application and is seeking the hearing expenses. As the landlord was not successful in her claim, the tenant is not responsible to pay for the hearing expenses. I find that the tenant do not have to pay the \$20.00 fee.

Summary of Decision:

17. The landlord does not succeed in her claim for vacant possession.
18. The landlord does not succeed in her claim for hearing expenses.

August 14, 2023

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office