

## Residential Tenancies Tribunal

Application 2023-0618-NL

Decision 23-0618-NL

Michael Reddy  
Adjudicator

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### Introduction

1. The hearing was called at 1:45 PM on 4 October 2023 via teleconference.
2. The applicant, the [REDACTED] represented by [REDACTED], hereinafter referred to as "the landlord", attended the hearing.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant", attended the hearing.
4. The details of the claims were presented as an written monthly rental agreement with rent set at \$800.00, due on the 1<sup>st</sup> of each month. There was a security deposit collected on this tenancy in the amount of \$372.00, still in possession of the landlord. The tenant has resided at [REDACTED] since 2 October 2022 (**Exhibit L # 1**). The landlord issued a termination notice on 30 May 2023 to terminate the tenancy on 31 August 2023 under section 18 of the *Residential Tenancies Act, 2018* (**Exhibit L # 2**).
5. The landlord issued an additional 5 day notice on 13 September 2023 (**Exhibit L # 3**). As of the date of the hearing (4 October 2023), the tenant remains in the residence.
6. The tenant was served electronically at [REDACTED] at approximately 11:32 AM on 21 September 2023 under section 19 of the *Residential Tenancies Act, 2018* (**Exhibit L #4**).
7. In a proceeding under the *Residential Tenancies Act, 2018*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

## Preliminary Matters

8. The landlord amended his application during the hearing and did not wish to seek hearing expenses, rental arrears or a notice where tenant contravenes peaceful enjoyment and reasonable privacy.
9. The tenant requested additional time to prepare for the hearing. The landlord submitted an affidavit (**Exhibit L # 4**) with his application which indicates the tenant was properly served. As further delay in these proceedings would unfairly disadvantage the landlord, this request was denied.

## Issues before the Tribunal

10. The landlord is seeking the following:
  - An order for eviction and possession of property

## Legislation and Policy

11. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*
12. Also relevant and considered in this case is S. 18, 19, 34 and 35 of the *Residential Tenancies Act, 2018*.

## Issue 1: Order for eviction/ possession of property

### Landlord position

13. The landlord presented testimony the rental agreement of the rented premises located at [REDACTED], is a written monthly tenancy.
14. The landlord testified that the [REDACTED] had initially rented out the property and the location was a five bedroom house, with common area, and staff from the at-risk youth program would attend the location to meet with tenants to offer support to the residents.
15. Since this time, the landlord further offered that due to the owner of [REDACTED] wishing to obtain possession of the property, all five tenants in the location, including the current tenant, had been issued a 3 month notice to vacate in May 2023. Since this time, the tenant has not vacated the property, and remains the only left tenant at [REDACTED] [REDACTED] at the time of the hearing (4 October 2023).

16. The landlord testified there have been behavioral concerns with the tenant and non-compliance with program rules and regulations, and offered the tenant had expressed his lack of willingness to move from the residence a number of times to different staff of the [REDACTED]

#### Tenant position

17. The tenant continued to suggest during the hearing that he required more time and the hearing should not proceed. The tenant alleged he had evidence during the hearing, however did not offer this information, nor indicate any testimony to support his claim.
18. The tenant was encouraged to offer testimony during the hearing to which he stated, "this is a human rights issue".

#### **Analysis**

19. The landlord offered evidence of a Notice to Terminate the tenancy under Section 18 of the *Residential Tenancies Act, 2018* (**Exhibit L # 2**). Section 18 (2) (b) of the *Act*, states:

#### **Notice to termination of rental agreement**

*(2) A landlord shall give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential property*

*(b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month.*

20. On examination of the termination notice and submitted into evidence, I find the notice served on 30 May 2023 with a terminated date of 31 August 2023. I find that as the date of termination identified on the notice not less than 3 months before the end of the rental period and the date the tenant is required to move out, the termination notice is in full compliance with the requirements of Section 18 (2)(b).
21. Section 18 (9) and 34 identify the technical requirements of the termination notice. On examination of the termination notice, I find all these criteria have been met.

#### **Section 18 (9)**

*In addition to the requirements under Section 34, a notice under this section shall*

- (a) be signed by the landlord;*
- (b) be given not later than the first day of the rental period;*
- (c) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and*
- (d) be served in accordance with section 35.*

## Section 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.*

22. As identified above, the landlord testified that the termination notice was served personally which is a permitted method of service identified under Section 35.
23. According to the reasons identified above, I find that the termination notice issued by the landlord to be proper and valid. Therefore, the landlord is entitled to an order for vacant possession of the property, along with an order for any and all costs associated with certifying the orders or with the Sheriff to enforce such a Possession Order should the Sheriff be engaged to execute the Possession Order.

## Decision

24. The landlord's claim for an order for vacant possession does succeed. The landlord is further awarded cost associated with the certification and enforcement of the Possession Order by the High Sheriff of NL.

## Summary of Decision

25. The landlord is entitled to the following:

- An order for vacant possession of the rented premises,
- The tenant shall also 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.

18 October 2023

Date

Residential Tenancies Office