

## **Residential Tenancies Tribunal**

Application 2023-0665-NL

Decision 23-0665-00

Jacqueline Williams  
Adjudicator

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### **Introduction**

1. Hearing was called at 9:15 a.m. on 21-August-2023.
2. The applicant, [REDACTED], represented by [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 him by telephone at the start of the hearing, as there was no number provided. 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. The landlord submitted an affidavit with their application stating that she had served the tenant with notice of the hearing, in person on 04-August-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 his absence.

### **Issues before the Tribunal**

5. The landlord is seeking
  - Vacant Possession of rental premises
  - Hearing Expenses \$20.00

### **Legislation and Policy**

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.

7. Also relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 20: Notice where material term of agreement contravened.

### **Issue 1: Vacant Possession of the Rental Premises**

#### **Relevant Submissions**

8. The landlord submitted the rental agreement held with the tenant (LL#02). The tenant took occupancy on 20-September-2018. He currently pays \$598.00 for rent each month as well as \$35.00 for heat. His rental period is monthly from the first day of each month until the last. The tenant paid a security deposit of \$300.00 on 19-September-2018, the landlord is still in possession of the deposit.
9. The landlord explained that this apartment is partner managed with NL Housing. Included in the rental agreement (LL#02) Section 10, the tenant agrees to provide the landlord with their statement of income, rent owed is calculated based on the tenant's income.
10. The landlord provided two letters (LL#02) with the rental agreement dated for 31-October-2022 and 12-December-2022, requesting that the tenant provide his income information. These letters explain that if he doesn't provide the requested information his rental agreement may be terminated.
11. The landlord stated that they have verbally reminded the tenant that he is to provide them with the information; as of the date of the hearing, the tenant hasn't done this. The landlord has served the tenant with three separate termination notices for this infraction. They are all on a "landlord's notice to terminate early – cause" form and they all cite Breach of Material Term. They are dated as follows:
  - 19-January-2023 with a termination date of 28-February-2023
  - 22-February-2023 with a termination date of 31-March-2023
  - 16-June-2023 with a termination date of 31-July-2023
12. The landlord provided additional information for the most recent notice: 16-June-2023 with a termination date of 31-July-2023. This notice is signed by another staff for 16-June-2023. The landlord said the case notes indicate that the signer and another staff member did a home inspection and served the tenant in person on 16-June-2023.
13. The landlord is seeking an Order of Vacant Possession.

#### **Analysis**

14. In accordance with Section 20 of the Residential Tenancies Act, 2018, as follows:

#### ***Notice where material term of agreement contravened***

**20. (1) Notwithstanding subsection 18(1) and paragraph 18(3)(a), where a landlord contravenes a material term of a rental agreement, the tenant may give the landlord written notice of the contravention, and if the landlord fails to remedy the contravention within a reasonable time after the notice has been served, the tenant may give the landlord notice that the rental agreement is terminated and the tenant intends to vacate the residential premises.**

**(2) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes a material term of a rental agreement, the landlord may give the tenant written notice of the contravention, and if the tenant fails to remedy the contravention within a reasonable time after the notice has been served, the landlord may give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises.**

**(3) Where the tenant gives a landlord notice under subsection (1) or the landlord gives a tenant notice under subsection (2) that a rental agreement is terminated, the notice shall be given**

**(a) not less than 7 days before the end of a rental period where the residential premises is rented from week to week; and**

**(b) not less than one month before the end of a rental period 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.**

**(4) In addition to the requirements under section 34, a notice under this section shall**

**(a) be signed by the person providing the notice;**

**(b) be given not later than the first day of a rental period;**

**(c) state the date, which shall be the last day of a rental period, on which the rental agreement terminates and the tenant intends to vacate the residential premises or the date by which the tenant is required to vacate the residential premises; and**

**(d) be served in accordance with section 35.**

15. The landlord has adhered to the steps required to serve a termination notice under Section 20 of the Act. They provided notice of the contravention and the tenant has failed to show proof of income. I find that the termination notice meets the requirements of the Act and the tenant should have moved 31-July-2023.

## **Decision**

16. The landlord's claim for vacant possession succeeds.

## **Issue 4: Hearing expenses reimbursed \$20.00**

17. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#04) and pursuant to policy 12.01, is entitled to reimbursement of that cost from the tenant.

## **Summary of Decision**

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

The tenant shall:

- Vacate the premises 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.
- Pay to the landlord \$20.00 for the cost of hearing expenses.

The landlord shall:

- Be awarded for an order for vacant possession

August 25, 2023

Date

[Redacted]  
Jacqueline Williams, Adjudicator  
Residential Tenancies Office