

Residential Tenancies Tribunal

Application 2023-0679-NL
Application 2023-0837-NL

Decision 23-0679-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:53 p.m. on 28-September-2023 and at 1:45 p.m. on 12-October-2023.
2. The applicants, [REDACTED] (applicant 1) and [REDACTED] (applicant 2), hereinafter referred to as “the tenants”, attended by teleconference. [REDACTED], authorized representative attended on 28-September-2023.
3. The respondent, [REDACTED], hereinafter referred to as “the landlord”, attended on both dates by teleconference.

Preliminary Matters

4. The applicants are family members who resided at the same residence and made separate applications seeking compensation for the same items. Although both hearings were heard at different times, the results are the same and it has been decided to combine both applications and write one Decision with one Order.
5. The question of *Jurisdiction* was addressed at the beginning of the hearings and the hearings proceeded without clarity on the issue. It has since been decided that there was a residential tenancy relationship between the applicants and the respondent. This determination was made based on interpretation of Section 3(3)(a) of the *Residential Tenancies Act, 2018* which states;

Application of the Act

3.(3) The relationship of landlord and tenant shall be considered to exist in respect of residential premises where the tenant

- a) Uses or occupies residential premises and
has paid or agreed to pay rent to the landlord; or

b) Makes an agreement with the landlord by which the tenant is granted the right to use or occupy residential premises in consideration of the payment of or the promise to pay rent; or

c) Has used or occupied residential premises and has paid or agreed to pay rent to the landlord

6. The landlord stated that she did not believe that a residential tenancy relationship existed as the accommodations that she provided the applicants with was contingent on their employment at her Hotel. The landlord stated that she provided staff accommodations in the company house which is located next to her place of business. The tenants on the other hand stated that it was a residential premises for which they paid rent for the purpose to occupy and they signed a lease agreement (TT#1).

7. In accordance with Section 3(3) of the *Act* as stated above, the tenants occupied a residential premises and paid rent to their landlord, and for that reason, I find that there was a residential tenancies relationship between the applicants and the respondent and the issues brought forth in the hearing will be addressed accordingly.

8. There was a written bi-weekly rental agreement that commenced on 5-June-2023. Rent was \$150.00 bi-weekly for each applicant to be paid through payroll deductions which included furniture, utilities and Wi-Fi. A security deposit was not paid.

9. Applicant 1 stated that he served the landlord with the notice of hearing electronically by email to: [REDACTED] on 14-August-2023 and applicant 2 stated that he also served the landlord electronically at the same email address on 28-September-2023 (TT#2). The landlord confirmed receiving both documents on the dates stated. In accordance with the *Residential Tenancies Act, 2018* this is good service.

Issues before the Tribunal

10. The tenants are seeking:

- Validity of termination notice
- Compensation paid for inconvenience \$5374.04

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 decision are the following sections of the *Residential Tenancies Act, 2018*: Section 18; Notice of termination of rental agreement and Section 34; Requirements for notices.

Issue # 1: Validity of Termination Notice

Relevant Submissions

13. The tenants submitted a copy of the termination notices issued to them on 25-July-2023 to vacate the premises by the 28-July-2023 (TT#3). The notices were received in the form of an electronic message stating that the applicant's employment is terminated and as a result they had to vacate the company house within 3 days.

Tenant's Position

14. Applicant 1 testified that a 3 day termination notice was difficult and even though he knew it was not a valid notice, he felt that his family had to vacate the premises within the time frame provided by the landlord. Applicant 1 stated that this left them in a situation whereby they had nowhere to live and no money to fly out of [REDACTED].

Landlord's Position

15. The landlord stated that there was not a residential tenancy relationship and that the company house was only provided to staff while under her employ. The landlord stated that the applicant's termination from work automatically meant termination from the company house as new staff needed to move in.

Analysis

16. Section 34 of the *Residential Tenancies Act, 2018* states;

Requirements for Notices

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 was given.*

17. It has been determined that a residential tenancy relationship did exist between the applicants and the respondent as per paragraph 6 above and in accordance with Section 34 of the Act , the termination notices were not a valid notice.

18. I find that the termination notices issued to the tenants on 25-July to vacate on 28-July-2023 were not valid notices.

Decision

19. The tenant's request for a determination of the validity of the termination notices is that the notices were not valid notices.

Item # 2: Compensation for inconveniences \$5374.04

Relevant Submission

20. Applicant 1 testified that they were greatly inconvenienced as a result of having to vacate their home with 3 days' notice and nowhere to go. The tenants are claiming \$5374.04 in inconveniences and submitted a list to support their claim as follows (TT#4):

Flights from [REDACTED] (plus \$23 baggage)	\$879.44
Shipping personal items back to [REDACTED]	\$1207.62
1 night in hotel in [REDACTED]	\$104.98
Taxis to/from airports & accommodations	\$107.00
Food during 2 days of travel	\$75.00
Loss of property (estimate based on 7 boxes)	\$3000.00

Tenant's Position

21. Applicant 1 stated that having to leave his home in 3 days and try to find a place to live and make arrangements to get back to [REDACTED] was very difficult for him and his family. Applicant 1 stated that his landlord and employer made all the arrangements for him and his partner to originally fly from [REDACTED] to [REDACTED] and shipped all their belongings for them as part of their employment. Applicant 1 testified that there is no housing available in [REDACTED] and they had no choice but to relocate back to [REDACTED]. The tenant's are seeking the cost of their flights back to [REDACTED] plus theirs baggage fees in the amount of \$879.44. The tenant's are also seeking the cost to ship their personal belongings in the amount of \$1207.62. The tenants are seeking 1 night of accommodations on the 28-July-2023, the night they had to vacate the premises as they had nowhere to stay. The tenants are seeking taxis and food during their 2 day travel back to [REDACTED] at \$182.00 and applicant 1 testified that they had to leave 7 boxes of personal belongings behind as he could not afford to bring it back with them. The tenant's arbitrarily estimated the value in the 7 boxes to be \$3000.00.

Landlord's Position

22. The landlord testified that she paid everything to bring the applicants and their belongings to [REDACTED] with a 3 year employment contract to work in her Hotel. The landlord testified that the applicants did not pass their probationary period which was a condition of their employment. The landlord stated that she was regretful that things did not work out and she stated that she is not responsible to pay for anything to assist employees with travel once their employment contracts ended.

Analysis

23. It was determined in paragraph 6 under *preliminary matters* that a residential tenancy relationship did exist between the landlord and the tenants but there was also an employer and employee relationship with both parties which have unresolved issues that cannot be dealt with at this tribunal. The list of inconveniences submitted by the applicants are the result of a termination from their employment. The respondent as an employer paid to bring her staff (the applicants) to [REDACTED] and paid to ship their personal belongings to [REDACTED]. The applicant's should be seeking compensation for those inconveniences from their employer not their landlord. The only item above that I can deal with is the cost of accommodations on the night that the tenants had to vacate the premises.

24. I accept that there was nowhere for the tenants to stay on 28-July-2023 and without a proper termination notice from the landlord, it is reasonable for the tenants to seek the cost of accommodations for that night. The tenant's submitted a receipt to support their claim for \$104.98 (TT#5).

25. I find that the landlord is responsible to reimburse the tenants for the cost of accommodations on 28-July-2023.

26. I find that all other items sought by the tenants for inconveniences as per the above list should be dealt with in another court of competent jurisdiction.

Decision

27. The tenant's claim for compensation for inconveniences succeeds in the amount of \$104.98.

Issue # 3: Hearing expenses \$40.00

28. The tenants paid application fees of \$40.00 to Residential Tenancies and provided a copy of the receipts (TT#6).
29. As the tenant's claim has been partially successful, the landlord shall pay the \$40.00.

Decision

30. The tenant's claim for hearing expenses succeeds in the amount of \$40.00.

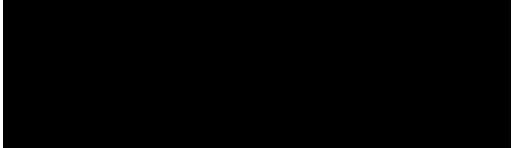
Summary of Decision:

31. The termination notice issued on 25-July-2023 was not a valid notice.
32. The landlord shall pay the tenants \$144.98 as follows:

Cost of accommodations (28-July-2023)	\$104.98
Hearing expenses	<u>40.00</u>
Total	<u>\$144.98</u>

October 16, 2023

Date


Pamela Pennell, Adjudicator
Residential Tenancies Office