

Residential Tenancies Tribunal

Application 2023-0709-NL

Decision 23-0709-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:03 a.m. on 30-August-2023.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference. [REDACTED], representative also attended (see authorization LL#1).
3. The respondent, [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.

Preliminary Matters

4. The landlord submitted an affidavit with her application stating that she had served the tenant with the notice of hearing, electronically by emailing to [REDACTED] on 14-August-2023 (LL#2). The tenant confirmed receiving the document on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There is a written term rental agreement which commenced on 15-July-2022 (LL#3). Rent is \$1500.00 per month due on the first of each month. A security deposit of \$750.00 was paid on 15-July-2022 and is still in the possession of the landlord.
6. The landlord amended the application to remove \$1500.00 for outstanding rent.

Issues before the Tribunal

7. The landlord is seeking:
 - An order of Vacant Possession of the rented premises

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

Issue # 1: Vacant Possession of the Rented Premises

Relevant Submissions:

10. The landlord submitted a termination notice under Section 19: Notice where failure to pay rent and Section 22; Notice where the tenant's obligation is not met. The notice is signed and dated for 7-August-2023, with a termination date of 18-August-2023 (LL#4).

Landlord's Position:

11. The landlord testified that the tenant had outstanding rent at the time that she issued the termination notice. The landlord testified that the outstanding balance was paid in full on 22-August-2023. The landlord testified that the termination notice is the fourth written notice in the past 12 months and a copy of all written notices have been submitted into evidence (LL#5).
12. In addition to the continuous rent problem, the landlord stated that the tenant has also violated Section 22 of the *Act*; failure to keep the premises clean. The landlord testified that she gave the tenant a "Landlord's Request for Repairs" form on 3-August-2023 requesting that the repairs be completed on or before 6-August-2023 (LL#6). The landlord testified that when she visited the unit on 6-August-2023 some of the work was completed but most was not.

Tenant's Position

13. The tenant did not dispute that she is continuously late with the rent or that she has received 4 termination notices in the past 12 months.
14. The tenant did dispute the claim by the landlord that she did not comply with the request to clean the unit. The tenant testified that she did clean the areas requested of her prior to the requested completion date of 6-August-2023.

Analysis

15. Section 19 of the *Residential Tenancies Act, 2018* states:

a. Notice where failure to pay rent

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

i. (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*
 - c. *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.*
 - i. (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.*

16. The tenant confirmed that she was in rent arrears in excess of the 5 days when the notice was served. On the date of termination, 18-August-2023 the tenant paid \$750.00 which left a balance of \$750.00. As rent was still in arrears on the termination date, and as the tenant confirmed this to be true, I find that the termination notice meets the requirements of the *Act* and is a valid notice.

17. I accept the landlord's testimony that the tenant had outstanding rental arrears on the termination date of 18-August-2023.

18. I find the tenant should have vacated the property by 18-August-2023.

19. Section 19(3) and Section 22 will not be analyzed as the landlord has been successful in proving her case under Section 19(1)(b).

Decision

20. The landlord's claim for an order for vacant possession of the rented premises succeeds.

21. The tenant shall vacate the premises immediately.

22. The tenant shall 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.

Summary of Decision

23. The landlord is entitled to the following:

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

August 31, 2023

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office