

Residential Tenancies Tribunal

Application 2023-0874-NL

Decision 23-0874-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 9:03 AM on 24 October 2023 via teleconference.
2. The applicant, [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. The tenant also called a witness, [REDACTED], who attended the hearing.
4. The details of the claims were presented as a written agreement with rent set at \$263.00 and due on the 1st of each month. The tenant moved into the residential property at [REDACTED] on 25 February 2002. There was no security deposit collected on this tenancy and the current rental agreement was monthly (**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. 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

6. The landlord submitted an affidavit with her application which suggests the tenant was served in person on 21 September 2023 an Application for Dispute Resolution (**Exhibit L # 3**).

7. The landlord amended her application to include hearing expenses (\$20.00), along with vacant possession of the rental property at [REDACTED].

Issues before the Tribunal

8. The landlord is seeking the following:
- An order for eviction and possession of property; &
 - An order for payment of hearing expenses.

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act*, 2018
10. Also relevant and considered in this case is S. 18, 34 and 35 of the *Residential Tenancies Act*, 2018, and rule 29 of the *Rules of the Supreme Court*, 1986.

Issue 1: Order of eviction/possession of property

Landlord position

11. The landlord stated that there is a written monthly rental agreement established with the tenant and that the tenant has occupied the rental premises since 25 February 2002. A copy of the rental agreement was submitted by the landlord (**Exhibit L # 1**).
12. The landlord submitted a termination Notice under Section 18 of the *Residential Tenancies Act*, 2018, on 30 May 2023, requesting possession of the property on 31 August 2023 (**Exhibit L # 2**).
13. The landlord offered testimony, to the best of her knowledge and belief, the tenant remains in the rental unit on the date of the hearing (24 October 2023).

Tenant position

14. The tenant offered testimony that she did receive the section 18 notice on 30 May 2023 as this notice was placed on the door of [REDACTED].
15. The witness stated there were concerns with the section 18 notice issued to the tenant as included the incorrect middle initial of the tenant.
16. The tenant did acknowledge the signature on the rental agreement submitted by the landlord was her signature.

17. The tenant also suggested her concerns with the lack of current housing available and asked the landlord if there was an opportunity for her to maintain her tenancy at [REDACTED]. The landlord did not wish to attempt mediation and was seeking possession of the rental property.

Analysis

18. 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).
19. 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.*

20. As identified above, the landlord testified that the termination notice was served personally by a representative with [REDACTED] on 30 May 2023, which is a permitted method of service identified under Section 35.
21. 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

22. 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.

Issue 2: Hearing Expense \$20.00

23. The landlord submitted a receipt for the hearing expense for the Application for Dispute Resolution (**Exhibit L # 4**) in the amount of \$20.00.

Analysis

24. I find the landlord is entitled to the **\$20.00** application fee reimbursement as her application succeeds.

Decision

25. The landlord's claim for hearing expense succeeds.

Summary of Decision

26. 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.
 - The tenant shall also pay the landlord \$20.00 hearing expense.

01 November 2023

Date


Michael J. Reddy
Residential Tenancies Office