

Residential Tenancies Tribunal

Application 2023-No.0883-NL

Decision 23-0883-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 2:03 p.m. on 04-January-2024.
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 her by telephone [REDACTED] at the start of the hearing. 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 she has been properly served. The landlord submitted an affidavit (LL#01) with their application stating that they had served the tenant with notice of the hearing, by prepaid registered mail [REDACTED] on 29-September-2023, she also provided the tracking receipt. This package was subsequently returned to the sender, however in accordance with Section 35 of the *Residential Tenancies Act, 2018*, this package is considered served 5 days after it was mailed. 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 her absence.

Issues before the Tribunal

5. The landlord is seeking:
 - Vacant possession of the 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 are the following sections of the *Residential Tenancies Act, 2018*: Section 14: Security deposit, Section 18: Notice of termination of rental agreement and Section 35: Service of documents.

Issue 1: Vacant Possession of the Rental Premises

Relevant Submissions

8. The landlord said that they have a written monthly rental agreement with the tenant. She moved in around 01-May-2022. She pays \$878.00 for rent on the 1st day of each month. The tenant paid her \$372.00 security deposit on 12-April-2022 and the landlord is still in possession of the deposit.
9. The landlord submitted a termination notice (LL#02), it is a Section 18 notice that was dated and signed for 18-September-2023 with a termination date of 31-December-2023. The landlord said that the Resident Manager hand delivered the notice on 19-September-2023.
10. The landlord is seeking an order of vacant possession.

Analysis

11. According to Section 18 of the *Residential Tenancies Act, 2018*:

Notice of termination of rental agreement

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

- (a) not less than 4 weeks before the end of a rental period where the residential premises is rented from week to week;***
- (b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month; and***
- (c) not less than 3 months before the end of the term where the residential premises is rented for a fixed term.***

.....

(9) 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.*
- 12. The termination notice submitted by the landlord (LL#02) meets the requirements of the Act and is a valid notice.
- 13. The termination notice is valid and the tenant should have moved on 31-December-2023.

Decision

- 14. The landlord's claim for an order for vacant possession succeeds.
- 15. The tenant shall vacate the premises immediately.
- 16. The tenant shall 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.

Issue 2: Hearing expenses reimbursed \$20.00

- 17. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#03) and pursuant to policy 12.01, is entitled to reimbursement of that cost from the tenant. I will determine in accordance with Section 14 of the *Residential Tenancies Act, 2018*, that they may retain \$20.00 from the tenant's security deposit for this expense. As follows:

Security deposit

- 14. (10) *Where a landlord believes he or she has a claim for all or part of the security deposit,*
 - (a) *the landlord and tenant may enter into a written agreement on the disposition of the security deposit; or*
 - (b) *the landlord or the tenant may apply to the director under section 42 to determine the disposition of the security deposit*

Summary of Decision

18. The tenant shall vacate the premises immediately.
19. 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.
20. The landlord is granted an Order of Possession.
21. The landlord shall retain \$20.00 from the tenant's security deposit for hearing expenses.

January 10, 2024

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office