

## Residential Tenancies Tribunal

Application 2023-0906-NL

Decision 23-0906-00

Pamela Pennell  
Adjudicator

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### Introduction

1. Hearing was called at 9:15 a.m. on 6-October-2023.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants” did not attend.

### Preliminary Matters

4. The tenants were not present or represented at the hearing and I was unable to reach them by telephone 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 hearing 10 clear days prior to the hearing date and, where the respondents fail to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent’s absence so long as they have been properly served. The landlord submitted an 2 affidavits with his application stating that he had served the tenants with the notice of hearing, electronically by emailing to [REDACTED] on 25-September (LL#1). The landlord provided proof of sent emails to the address provided on the rental agreement (LL#2). In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.
5. There is a written fixed rental agreement which commenced on 1-August-2022 which is now a month to month (LL#3). Rent is \$900.00 per month due on the first of each month. A security deposit was never paid.

### Issues before the Tribunal

6. The landlord is seeking an Order of Vacant Possession on the rented premises

## Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
8. 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:

9. The landlord submitted a termination notice under Section 19: Notice where failure to pay rent. The notice is signed and dated for 22-September-2023, with a termination date of 3-October-2023 (LL#4).

#### Landlord's Position:

10. The landlord testified that the tenant has an outstanding rental balance of \$2700.00 as of the date they were served and he referred to a previous hearing whereby an Order had been issued for payment of rent dated 19-September-2023 (LL#5). The landlord feels that the tenants should have vacated the premises by 3-October-2023.

## Analysis

11. 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.*

12. The tenants were in rent arrears in excess of the 5 days when the notice was served. On the date of termination, 3-October-2023 the tenants were still in arrears. I find that the termination notice meets the requirements of the *Act* and is a valid notice.
13. I accept the landlord's testimony that the tenant's had outstanding rental arrears.
14. I find the tenant should have vacated the property by 3-October-2023.

### **Decision**

15. The landlord's claim for an order for vacant possession of the rented premises succeeds.
16. The tenant's shall vacate the premises immediately.
17. The tenant's 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**

18. The landlord is entitled to the following:
  - An order for vacant possession of the rented premises.
  - The tenant's shall vacate the premises immediately.
  - The tenant's 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.

October 19, 2023  
Date



Pamela Pennell  
Residential Tenancies Office