

## **Residential Tenancies Tribunal**

Application 2023-0909-NL

Decision 23-0909-NL

Michael Reddy  
Adjudicator

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### **Introduction**

1. The hearing was called at 2:00 PM on 4 December 2023 via teleconference.
2. The applicant, [REDACTED] represented by [REDACTED], hereinafter referred to as "the landlord", attended the hearing. The landlord did not call any witnesses.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant", did not attend the hearing and was not represented,
4. The details of the claims were presented as a signed monthly rental agreement with rent set at \$263.00, due on the 1<sup>st</sup> of each month (**Exhibit L # 1**). There was no security deposit collected on this tenancy. The tenant has resided at [REDACTED] [REDACTED] since 1 February 2019. The landlord issued a termination notice on 23 August 2023 to terminate the tenancy on 30 November 2023 under section 18 of the *Residential Tenancies Act, 2018* (**Exhibit L # 2**). On 29 September 2023, the tenant was served an Application for Dispute Resolution (**Exhibit L # 3**) by registered mail (**Exhibit L # 4**).
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 did not amend his application during the hearing and did not call any witnesses during the hearing.

## Issues before the Tribunal

7. The landlord is seeking the following:

- An order for eviction and possession of property; &
- Hearing Expenses- \$20.00

## 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 case is S. 18, 34 and 35 of the *Residential Tenancies Act, 2018*, and rule 29 of the *Rules of the Supreme Court, 1986*.

10. The tenant was not present or represented at this hearing. I attempted to establish contact with the tenant at a telephone number provided by the landlord (██████████) without success, prior to 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 with his application stating the tenant was served, by registered mail, on 29 September 2023 (██████████). As the tenant was properly served, and as further delay in the proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in her absence.

### Issue 1: Order for eviction/ possession of property

11. The landlord presented testimony the rental agreement of the rented premises located at ██████████, is a written monthly tenancy.

12. The landlord suggested that he issued a notice under section 18 to the tenant on 23 August 2023 to be out of the residence by 30 November 2023. The landlord stated the tenant remains in the rental unit at the time of the hearing (4 December 2023).

13. The landlord offered evidence of a Notice to Terminate the tenancy under Section 18 of the *Residential Tenancies Act, 2018* (**Exhibit L # 1**). Section 18 (2) (b) of the Act, states:

#### Notice to termination of rental agreement

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

**(b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month.**

## **Analysis**

14. On examination of the termination notice and submitted into evidence, I find the notice served on 23 August 2023 with a termination date of 30 November 2023. I find that as the date of termination identified on the notice is 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).
15. 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.*

16. As identified above, the landlord testified that the termination notice was served personally which is a permitted method of service identified under Section 35 by both sending the notice to terminate via registered mail (Canada Post tracking [REDACTED] [REDACTED] ) on 23 August 2023, along with giving it personally to an identify male, “[REDACTED]”, on 25 August 2023 (**Exhibit L # 2**).
17. 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

18. 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

19. The landlord submitted a receipt for the hearing expense for the Application for Dispute Resolution (**Exhibit L # 5**) in the amount of \$20.00.

## Analysis

20. I find the landlord is entitled to the **\$20.00** hearing expense reimbursement as his application succeeds.

## Decision

21. The landlord's claim for hearing expense succeeds in the amount of **\$20.00**.

## Summary of Decision

22. 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.

08 December 2023

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Date

Michael J. Reddy  
Residential Tenancies Office