

Residential Tenancies Tribunal

Application 2023-0969-NL

Decision 23-0969-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:53 p.m. on 7-November-2023.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.

Preliminary Matters

4. The landlord submitted an affidavit with his application stating that he had served the tenant with the notice of hearing personally at the residential premises on 25-October-2023 (LL#1). The tenant confirmed receiving the document. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There is a verbal rental agreement which commenced on 1-May-2022. Rent is \$600.00 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 12-October-2023, with a termination date of 24-October-2023 (LL#2).

Landlord's Position:

10. The landlord testified that rent has been in arrears for 6 months and he wants the tenant to vacate the unit. The landlord stated that he feels that the tenant should have vacated the premises on 25-October-2023.

Tenant's Position

11. The tenant testified that the landlord gave her the termination notice on 25-October-2023 at 2:00pm with a termination date of 24-October-2023. The tenant stated that the termination notice is invalid.

Analysis

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

Notice where failure to pay rent

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

(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**

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.

(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.**

13. The tenant did not dispute that rent is in arrears since July 2023, however she stated that she felt that the termination notice was not a valid notice. The tenant testified that she was given the termination notice on 25-October with a termination date of 24-October. I asked the landlord if he gave the notice on 25-October and his response was that he thought it gave it on 24-October but maybe it was the 25-October. In accordance with Section 19 of the *Residential Tenancies Act, 2018* as stated above, the landlord is required to give notice to vacate the residential premises on a specified date not less than 10 days after the notice is served on the tenant. For this reason, I find that the termination notice does not meet the requirements of the *Act* and is an invalid notice.

14. I find that the termination notice under Section 19 is not a valid notice.

Decision

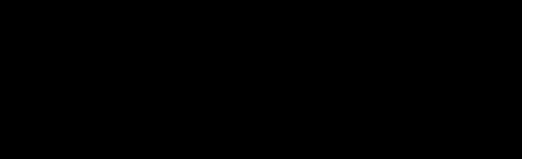
15. The landlord's claim for an order for vacant possession of the rented premises does not succeed.

Summary of Decision

16. The landlord's claim for an order for vacant possession does not succeed.

November 17, 2023

Date


Pamela Pennell
Residential Tenancies Office