

Residential Tenancies Tribunal

Application 2023-No.1044-NL

Decision 23-1044-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 1:51 p.m. on 30-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 stating that he served the tenant with notification of today's hearing 15-November-2023. The tenant confirms receipt of notification as stated.
5. At the start of the hearing the tenant stated that he is the landlord's son and that there is no rental agreement in place. This information brought into question the issue of jurisdiction.
6. The landlord relayed that his son required housing 25-December-2020 and they had agreed that he would pay \$600.00 a month rent. The son has continued to live there since that time. Both parties confirm there was only one payment of rent for \$1,100.00 in April 2021. Since that time there has been no further rent payments.
7. The landlord stated that based on the above rental agreement information there was a previous decision on the jurisdiction of this matter (2022-1025-NL). The adjudicator in that matter determined “I accept that the criteria to establish a landlord and tenant relationship has been satisfied and therefore, this tribunal will seize jurisdiction on this matter and render its decision below.”
8. As jurisdiction has been determined in Decision 2022-1025-NL this matter will proceed.

Issues before the Tribunal

9. The landlord is seeking:
 - Vacant possession of rental premises
 - Hearing Expenses \$20.00

Legislation and Policy

10. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
11. Also relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent.

Issue 1: Vacant Possession of the Rental Premises

Landlord's Position

12. The landlord submitted a termination notice (LL#02). It is on a "landlord's notice to terminate early – cause" form for failure to pay rent. The notice is signed and dated for 01-November-2023 with a termination date of 12-November-2023.
13. The landlord said that he served the tenant personally with the notice on 01-November-2023.

Tenant's Position

14. The tenant confirms the service of the notice.

Analysis

15. The notice was served under Section 19, of the *Residential Tenancies Act, 2018*, which 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.

.....

16. Both parties confirmed that only one payment of rent occurred in April 2021 (Paragraph 6). The tenant was in rent arrears in excess of the 5 days when the notice was served. On the date of termination, the tenant was still in arrears. The termination notice meets the requirements of the *Act* and is a valid notice. The notice was served in accordance of the *Act*.
17. The tenant should have vacated the property by 12-November-2023.

Decision

18. The landlord's claim for an order for vacant possession succeeds.
19. The tenant shall vacate the premises immediately.
20. 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

21. 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.

Summary of Decision

22. The tenant shall:
 - Pay the landlord \$20.00 for the cost of his hearing expenses.

- Vacate the property immediately
- 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.

The landlord

- Will be awarded an Order of Possession.

December 6, 2023

Date

Jacqueline Williams, Adjudicator
Residential Tenancies Office