

Residential Tenancies Tribunal

Application 2023-1066-NL

Decision 23-1066-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:12 a.m. on 4-January-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 respondent fails 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 2 affidavits with his application stating that he served the tenants with the notice of hearing electronically by email to; [REDACTED] and [REDACTED] on 17-December-2023 (LL#1). The landlord also submitted proof of email addresses and sent emails (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 month to month rental agreement which commenced on 15-July-2023. Rent is \$1600.00 per month due on the first of each month. A security deposit of \$800.00 was paid on 15-July-2023 and is in the landlord’s possession.

Issues before the Tribunal

6. The landlord is seeking an Order for 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 is the following section 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 17-October-2023, with a termination date of 30-October-2023 (LL#3).

Landlord's Position:

10. The landlord testified that rent is in arrears in the amount of \$11,200.00 since the beginning of the tenancy.

Analysis

11. 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.***

12. The tenant was in rent arrears in excess of the 5 days when the termination notice was served. On the date of termination, 30-October-2023 the tenant was still in arrears. In accordance with Section 19 of the *Residential Tenancies Act, 2018* as stated above, the termination notice meets the requirements of the *Act* and is a valid notice.

13. I find that the tenants should have vacated the premises by 30-October-2023.

Decision

14. The landlord's claim for an order for vacant possession of the rented premises succeeds.

15. The tenants shall vacate the premises immediately.

16. The tenants 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.

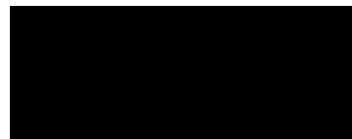
Summary of Decision

17. The landlord is entitled to the following:

- An order for vacant possession of the rented premises.
- The tenants shall vacate the premises immediately.
- The tenants 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.

January 9, 2024

Date



Pamela Pennell
Residential Tenancies Office