

## Residential Tenancies Tribunal

Application 2023-No.1097-NL

Decision 23-1097-00

Jacqueline Williams  
Adjudicator

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### Introduction

1. Hearing was called at 1:47 p.m. on 14-December-2023.
2. The applicant, [REDACTED] hereinafter referred to as “the tenant” attended by teleconference.
3. The respondent, [REDACTED] hereinafter referred to as “the landlord” attended by teleconference.

### Preliminary Matters

4. Both parties were present at the hearing and each confirmed that the tenant served the landlord with notification of today’s hearing on 27-November-2023 electronically.

### Issues before the Tribunal

5. The tenant is seeking validity of termination notice.

### Legislation and Policy

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

### **Tenant's Position**

8. The tenant submitted his rental agreement (TT#02). He explained that they initially had a term agreement from 01-September-2019 that ended on 31-August-2020 and subsequently became a monthly agreement. He stated that he paid \$500.00 each month for rent including utilities, this amount increased to \$550.00. Rent is due on the 1<sup>st</sup> day of each month. He could not determine the amount of the security deposit paid.
9. The tenant confirmed that he has been unable to find work and that this has prohibited him from paying rent. He confirms that the last payment made was \$1,500.00 on 14-September-2023 when he received his student loan. This payment was for rent past due from June – August. He doesn't dispute that no rent has been paid since that time.
10. The tenant submitted a termination notice (TT#03) it is a Section 19 notice for failure to pay rent that was addressed to himself and another tenant who has a separate rental agreement and her own room. The notice is dated and signed for 23-November-2023 with a termination date of 04-December-2023. The tenant said that the landlord personally delivered the notice.
11. The tenant explained that the notice is addressed to both himself and another tenant. He questioned if he should have been given a separate notice with just his name listed. He is seeking validity of the termination notice.

### **Landlord's Position**

12. The landlord confirmed the details of the rental agreement. He said that the tenant moved into the apartment before 01-September-2019. At that time the tenant was receiving income support or educational support and he required a written copy of his rental agreement. The landlord said that the tenant's rent increased from \$500.00 to \$550.00 sometime in 2022. The tenant is renting the basement apartment with two other individuals, each has their own rental agreement with the landlord. He said that they all rent a room and that they share the common area.
13. The landlord said that he has tried to be reasonable with the tenant, but he and his wife are paying for utilities on an apartment and there is no rent being paid. He said that the tenant did not pay rent for June, July, or August. He sent the tenant a text on 18-August-2023 asking when he last paid rent and the tenant told him that he was soon getting his student loan and he would make a payment then. The landlord confirms on 14-September-2023 the tenant paid \$1,500.00. He has not received any rent since that time and is owed rent for September, October, November, or December rent.
14. The landlord also confirmed the details of the termination notice and said he served the tenant with the notice on 23-November-2023. The landlord also confirms that he has listed both the tenant's name and another renter's name. The other renter has a separate agreement with the landlord.

## 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. 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 landlord does have cause to terminate the tenant's agreement.
17. The question that remains to be determined is does the listing of another person, who has a separate rental agreement, invalidate this notice.
18. I accept the tenant's argument that the notice is addressed to himself and another renter. As they have separate rental agreements, I will determine that they should have separate termination notices. In William & Rhodes Canadian Law of Landlord and Tenant, when discussing termination notices, the authors point out that termination notices must be unambiguous. A notice for cause is given when a tenant violates a rental agreement, as there are two separate tenants with two separate rental agreements, I find that the listing of both parties on the termination notice does cause ambiguity.

19. Both parties agree that the tenant has not paid rent and is in violation of his rental agreement. However, no evidence has been provided to show that the other renter is in violation of her agreement, herein lies the ambiguity. How can this notice be valid if there is no supporting evidence for or against the other listed renter? The tenant and the other renter have separate rental agreements with the landlord and should they be in violation of their agreement the landlord should serve them both separately of notice of termination. As their rental agreements with the landlord are separate and each agreement stands on its own merit the termination of those agreements must also be independent of each other. This situation of two individuals renting a room is the same as if it was two separate renters were renting apartments in a complex. The notices must be separate for them to be considered valid.
20. I find this notice is not valid.

### **Summary of Decision**

21. The termination notice dated 04-December-2023 is a not a valid notice.

January 8, 2024

Date

  
Jacqueline Williams, Adjudicator  
Residential Tenancies Office