

Residential Tenancies Tribunal

Application 2023-1123-NL

Decision 23-1123-00

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 9-January-2024.
2. The applicants, [REDACTED] and [REDACTED] hereinafter referred to as the tenants, appeared by teleconference.
3. The respondent, [REDACTED] appeared on behalf of herself and her co-respondent [REDACTED] They are hereinafter referred to as the landlords.

Issues before the Tribunal

4. Is the termination notice valid?

Legislation and Policy

5. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018* (the *Act*).
6. Also relevant and referred to in this decision are sections 18, 29, and 34 of the *Act*, reproduced below:

Notice of termination of rental agreement

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

- (a) not less than 4 weeks before the end of a rental period where the residential premises is rented from week to week;
- (b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month; and
- (c) not less than 3 months before the end of the term where the residential premises is rented for a fixed term.

...

(9) In addition to the requirements under section 34, a notice under this section shall

- (a) be signed by the person providing the notice;
- (b) be given not later than the first day of a rental period;
- (c) state the date, which shall be the last day of a rental period, on which the rental agreement terminates and the tenant intends to vacate the residential premises or the date by which the tenant is required to vacate the residential premises; and
- (d) be served in accordance with section 35.

29. (1) A landlord shall not

- (a) terminate or give notice to terminate a rental agreement; or
- (b) directly or indirectly coerce, threaten, intimidate or harass a tenant or a member of a tenant's family,

in retaliation for, or for the purpose of deterring the tenant from, making or intervening in a complaint or application in relation to a residential premises.

(2) Where a tenant who is served with a notice of termination of a rental agreement believes that the landlord has contravened subsection (1), he or she may, not later than one month after receiving the notice, apply to the director under section 42 for an order declaring that the rental agreement is not terminated.

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.

Issue 1: Termination Notice

Landlords' Position

7. The landlords submit that the termination notice is valid in form and purpose.

Tenants' Position

8. The tenants submit that the termination notice is for an invalid purpose and is therefore invalid under s. 29 of the *Act*. They submitted that the eviction was retaliation for their dispute of a previous, invalid notice, and pointed to a previous decision of this tribunal.

Analysis

9. To be valid, a termination notice must comply with the *Act*. A copy of the termination notice at issue was provided (TT#1). This notice was in writing in the form prescribed by the minister. It contains the name and address of the recipient. It identifies the residential premises for which it is given. It identifies that it is a notice under s. 18 for termination without cause. It therefore meets all the requirements under s. 34 of the *Act*.
10. LL#1 was signed by the person who provided the notice. It was issued on 31-October-2023, the day before the relevant rental period begins. It gives a move out date of 31-January-2024, the last day of a rental period. It was served in compliance with s. 35 of the *Act*.
11. The move out date is more than three full months after the notice was issued. This means that the notice can only be held invalid if it was ruled to be issued for an invalid purpose.
12. The tenants submit the termination notice is retaliatory. The landlord says that it is not. A previous decision by this tribunal (2023-0834-NL) determined that a termination notice for cause was invalid. However, issuing another, without cause notice after a for-cause notice is issued is not evidence of retaliation. Retaliation is for the purpose of punishing the tenant. The landlord being determined to reclaim vacant possession of the unit is simply evidence that they no longer wish to be in a tenant-landlord relationship.
13. There is insufficient evidence to support a finding of an invalid purpose.

Decision

14. The termination notice dated 31-October-2023 is valid.

18-January-2024

Date


Seren Cahill
Residential Tenancies Office