

Residential Tenancies Tribunal

Application 2023-1185-NL
Application 2024-0053-NL

Decision 23-1185-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:02 a.m. on 27-February-2024.
2. The applicant, [REDACTED] hereinafter referred to as "the tenant", attended by teleconference.
3. The respondent and counter applicant, [REDACTED] hereinafter referred to as "the landlord", attended by teleconference. [REDACTED] also attended as a support person.

Preliminary Matters

4. There is a verbal month to month rental agreement which commenced in April 2019. Rent is \$700.00 per month, due on the first of each month. A security deposit of \$325.00 was paid on 1-April-2019 and is in the landlord's possession.
5. The applicant submitted a copy of an affidavit stating that he served the landlord with the notice of hearing electronically by email to; [REDACTED] on 19-February-2024 (TT#1). The respondent confirmed receiving the document on that date and stated that she had already made an application. The respondent submitted a copy of an affidavit stating that she served the applicant with the notice of hearing electronically by email to; [REDACTED] on 16-February-2024 (LL#1). The applicant confirmed receiving the document on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.

Issues before the Tribunal

6. The tenant is seeking:
 - A determination of the validity of a termination notice.
7. The landlord is seeking:
 - Vacant possession of the rented premises

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
9. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 18; Notice of termination of rental agreement.

Issue # 1: Validity of Termination Notice Vacant Possession of rented premises

Relevant Submissions

10. Both parties submitted a copy of a termination notice issued by the landlord to the tenant on 1-October-2023 to vacate on 31-December-2023 under Section 18 of the *Residential Tenancies Act, 2018* (TT#2).

Tenant's Position

11. The tenant didn't have a position and stated that he felt that the termination notice was given because he smokes in the unit. The tenant stated that he does not have a new unit to move into.

Landlord's Position

12. The landlord did not have a position and was exercising her right as a landlord to give a standard termination notice.

Analysis

13. The relevant subsections of Section 18 of the *Residential Tenancies Act, 2018* state:

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

(b) not less than 3 months before the end of a rental period where the residential premises is rented from month to month; and

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

14. The termination notice submitted by the landlord meets the requirements of not less than 3 months before the end of a rental period where the residential premises is rented month to month. In accordance with the *Residential Tenancies Act, 2018* the termination notice is a valid notice.

15. I find that the tenant should have vacated the premises by 31-December-2023.

Decision

16. The landlords claim for an order of vacant possession succeeds.

17. The tenant shall vacate the premises immediately.

18. The tenant 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:

19. The standard termination notice issued on 1-October-2023 is a valid notice.

20. The tenant shall vacate the premises immediately.

21. The tenant 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.

22. The landlord will be awarded an Order of Possession.

March 6, 2024

Date

Pamela Pennell, Adjudicator
Residential Tenancies Office