

Residential Tenancies Tribunal

Application 2023-1204-NL
2024-0026-NL

Decision 23-1204-00

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 22-January-2024
2. The applicant, [REDACTED] hereinafter known as the tenant, appeared via teleconference.
3. The respondent, [REDACTED] hereinafter referred to as the landlord, was represented at the hearing by [REDACTED] who also appeared via teleconference.

Issues before the Tribunal

4. Should the landlord be granted rent and late fees?
5. Should the landlord be granted an order of vacant possession?

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* (the *Act*).
7. Also considered in this decision are subsections 19(1) and (4), as well as section 34 of the *Act* as follows:

19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),

(a) where the residential premises is rented from week to week and the amount of rent payable by a tenant is overdue for 3 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 3 days after the notice is served on the tenant; and

(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.

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: Rent

- 8. The landlord testified that the tenant owes \$950.00 in rent. He says the tenant had a balance of zero on 1-November-2023. On 1-December-2023, the tenant was charged the \$850 monthly rent and the landlord received \$200 from NL Housing, leaving the tenant with a balance of \$650 owing. On 1-January-2024 the tenant was charged another \$850, leaving him with a balance of \$1500 owing. On 12-January-2024 the landlord received \$650 from NL Housing, reducing the balance owed to \$950. A rental ledger, LL#1, was provided in support of this.
- 9. The tenant acknowledges that he has been unable to pay rent due to costs incurred as a result of his ill health and did not dispute the landlord's testimony on this matter.
- 10. The minister has prescribed the rate of late fees to be \$5 for the first day and \$2 for every subsequent day, to a maximum of \$75. As more than 30 days have elapsed since the tenant owed rent, the maximum allowable late fee of \$75 applies.

Issue 2: Vacant Possession

11. The landlord produced a termination notice (LL#2) which was served personally on the tenant. This termination notice is in writing in the form prescribed by the minister. It contains the name and address of the tenant. It identifies the residential premises it regards. It states it is a termination notice under s. 19. It therefore conforms with s. 34 of the *Act*.
12. The notice is signed by the landlord. It states a termination date. It was served in accordance with s. 35 of the *Act*. It therefore meets the requirements under s. 19(2) of the *Act*.
13. It was acknowledged that the tenant has owed the landlord rent since 1-December-2023. LL#2 was issued on 6-January-2024. It gives a move out date of 17-January-2024. That provides ten clear days' notice. It therefore complies with the requirements of s. 19(1) of the *Act*.
14. The termination notice complies with all relevant sections of the *Act* and so is valid.

Decision

15. The tenant owes the landlord \$950 in unpaid rent and \$75 in late fees.
16. The tenancy ended on 17-January-2024. Insofar as tenant is still occupying the premises, he is doing so unlawfully. The landlord's application for an order of vacant possession succeeds.
17. As the landlord was successful in their application, they are entitled to costs in the amount of the \$20 application fee.

Summary of Decision

18. The tenant shall vacate the premises immediately.
19. The tenant shall pay to the landlord any costs charged to the landlord, by the Office of the High Sherriff, should the landlord be required to have the Sheriff enforce the attached Order of Possession.
20. The landlord is granted an order of possession.

21. The tenant shall pay to the landlord \$1045 as follows:

Rent.....	\$950
Late fees.....	\$75
Hearing Costs.....	\$20
Total.....	\$1045

01 February-2024
Date



Seren Cahill
Residential Tenancies Office