

Residential Tenancies Tribunal

Application 2024-0082-NL

Decision 24-0082-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:14 a.m. on 28-February-2024.
2. The applicants, [REDACTED] and [REDACTED] hereinafter referred to as "the landlords", attended the hearing by teleconference.
3. The respondents, [REDACTED] and [REDACTED] hereinafter referred to as "the tenants" did not attend the hearing.

Preliminary Matters

4. The respondents were not present 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 respondents fail 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 landlords submitted 2 affidavits with their application stating that they served the tenants with the notice of hearing via prepaid registered mail [REDACTED] and [REDACTED] on 9-February-2024 (LL#1). Canada Post tracking shows that the mail was ready for pick up since 12-February-2024. In accordance with the *Residential Tenancies Act, 2018* registered mail is considered served after 5 days. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlords, I proceeded with the hearing in their absence.
5. There is a written month to month rental agreement which commenced 1-January-2018. Rent is \$1400.00 per month, due on the 1st of each month. A security deposit was never paid.

Issues before the Tribunal

6. The landlords are seeking:
 - An order for vacant possession of 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 18: Notice of termination of rental agreement.

Issue # 1: Vacant Possession of the Rented Premises

Relevant Submissions

9. The landlords submitted a copy of a termination notice issued to the tenants on a *Landlord's Notice to Terminate – Standard form (LL#2)*. The notice was dated for 1-October-2023 under Section 18; Notice of termination of rental agreement to vacate the premises on 31-December-2023.

Analysis

10. The notice was served under Section 18 of the *Residential Tenancies Act, 2018* which states:

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.*

11. The termination notice submitted by the landlords 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. The landlords stated that the termination notice was served electronically, and the tenants responded to the message. In accordance with the *Residential Tenancies Act, 2018* as stated above, the termination notice meets the requirements of the Act and is a valid notice.

12. I find that the tenants should have vacated the premises on 31-December-2023.

Decision

13. The landlord's claim for an order of vacant possession succeeds.

Summary of Decision:

14. The termination notice is a valid notice.

15. The tenants shall vacate the premises immediately.

16. The tenants shall pay to the landlords any costs charged to the landlords by the Office of the High Sheriff should the landlords be required to have the Sheriff enforce the attached Order of Possession.

17. The landlords will be awarded an Order of Possession.

March 6, 2024

Date


Pamela Pennell
Residential Tenancies Office