

Residential Tenancies Tribunal

Application 2024-0157-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 27-July-2024 at 1:51 pm.
2. The applicant, [REDACTED], hereinafter referred to as the tenant, attended via teleconference, alongside her authorized representative, [REDACTED].
3. The respondent, [REDACTED], hereinafter referred to as the landlord, also attended via teleconference.

Preliminary Matters

4. The respondent acknowledged they received notice of this hearing more than ten days before the hearing date.

Issues before the Tribunal

5. Are the termination notices dated 13-March-2024 and 30-December-2023 valid?

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2010* (the *Act*).
7. Also discussed and referred to in this decision are sections 20 and 34 of the *Act*, as reproduced here:

Notice where material term of agreement contravened

20. (1) Notwithstanding subsection 18(1) and paragraph 18(3)(a), where a landlord contravenes a material term of a rental agreement, the tenant may give the landlord written notice of the contravention, and if the landlord fails to remedy the contravention within a reasonable time after the notice has been served, the tenant may give the landlord notice that the rental agreement is terminated and the tenant intends to vacate the residential premises.

(2) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes a material term of a rental agreement, the landlord may give the tenant written notice of the contravention, and if the tenant fails to remedy the contravention within a reasonable time after the notice has been served, the landlord may give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises.

(3) Where the tenant gives a landlord notice under subsection (1) or the landlord gives a tenant notice under subsection (2) that a rental agreement is terminated, the notice shall be given

(a) not less than 7 days before the end of a rental period where the residential premises is rented from week to week; and

(b) not less than one month before the end of a rental period 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.

(4) 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.

Requirements for notices

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: Unpaid Rent

Tenant's Position

8. The tenant said she received a termination notice and a landlord's request for repairs together on the same day, on 13-March-2024. A copy of each was provided (T#1 and

T#2, respectively). She also received another termination notice before this on 30-December-2023, which was also provided (T#3).

Landlord's Position

9. The landlord agreed that the tenant had complied with the notice of repairs.

Analysis

10. To be valid, a termination notice must comply with all relevant sections of the *Act*.
11. LL#1 is in writing in the form prescribed by the minister. It contains the name and address of the recipient. It identifies the premises for which it was given. It identifies the section of the *Act* it was given under. It therefore complies with s. 34 of the *Act*.
12. LL#1 was signed by the person providing it. It was issued not later than the first day of the relevant rental period. It states the date on which the tenancy is to terminate is 30-April-2024, which is the last day of the rental period. It was served on the tenant in accordance with s. 35(2)(a) of the *Act*. It therefore complies with s. 20(4).
13. S. 20(2) provides that when a landlord serves a tenant a notice to complete repairs or otherwise comply with the material terms of a rental agreement, they may serve a termination notice pursuant to that only if, after a reasonable time, the repairs have not been made or the tenant otherwise has not fixed their breach of the material term. In this case, LL#1 was provided the same day as the request for repairs. This renders it invalid under s. 20(2) of the *Act*.
14. T#3 is written but not in the form prescribed by the minister. However, s. 22(f) of the *Interpretation Act, RSNL1990* states that where a form is prescribed, deviations from the form not affecting the substance nor calculated to mislead, do not invalidate the form used. Therefore, not using the form prescribed by the minister does not necessarily mean T#3 fails to comply with the *Act*. T#3 contains the name and address of the recipient. It identifies the residential premises for which it was given. It does not state the section of the *Act* under which it is given. It is therefore not in compliance with s. 34(d) of the *Act*, rendering it invalid.

Decision

15. The termination notice dated 13-March-2024 is invalid.
16. The termination notice dated 30-December-2023 is invalid.

26-July-2024

Date


Seren Cahill
Residential Tenancies Office