

Residential Tenancies Tribunal

Application 2024-0159-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 14-May-2024.
2. The applicant, [REDACTED], hereinafter referred to as the landlord, attended via teleconference.
3. The respondent, [REDACTED], hereinafter referred to as the tenant, also attended via teleconference, but left before providing any testimony.

Preliminary Matters

4. A hearing was scheduled for 5-April-2024. Prior to this hearing the landlord provided an affidavit (LL#1) that he served the tenant notice of that hearing via prepaid registered mail on 20-March-2024 and provided a tracking number ([REDACTED]) as well as the appropriate supporting documents. That hearing did not proceed, and our office sent a notice of rescheduled hearing to both parties via registered mail (Tracking number [REDACTED]). Both tracking numbers showed that the packages went unclaimed by the tenant.
5. The tenant did not call in to attend the hearing. I attempted to call him using the number provided by the landlord and spoke to the tenant. I explained why I called and, with his verbal consent, added him to the teleconference. The tenant mentioned before the hearing that he did not receive the notice card. Unfortunately, I was not able to inquire further as to the details of why that may have been. An argument occurred between the parties. I attempted to de-escalate the argument and focus on the legal issues with limited success. I asked the parties to address their comments to me rather than to each other in order to facilitate an orderly hearing. The landlord made a remark to the effect that he would prefer not to talk to the tenant further. The tenant replied that he felt the same way and after making another remark disconnected from the call. His last remark was not fully audible to me, but I perceived the tone as hostile and understood him to be deliberately ending his participation in the hearing.
6. As this matter had already been delayed multiple times, and any further delay would prejudice the landlord, I proceeded with the hearing without the tenant.

Issues before the Tribunal

7. Should the landlord's application for an order of vacant possession succeed?

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* (the *Act*).

9. Also relevant and referred to in this decision are sections 18 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.

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: Vacant Possession of the Rental Premises

10. In order to receive an order for vacant possession, a landlord must provide a valid termination notice. For a termination notice to be valid, it must comply with all relevant sections of the *Act*. In this case the landlord provided a copy of the notice (LL#2) issued to the tenant.
11. LL#2 is 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 complies with s. 34 of the *Act*.
12. LL#2 has been signed by the landlord's representative who provided it. It was issued on 1-September-2023, the first day of the relevant rental period, as the rental period in this case runs from the first of the month to the last. It gives a termination date of 30-November-2023, the last day of a rental period. The landlord testified that he served it by placing it under the door to the rental premises, in accordance with s. 35(2)(d).
13. LL#2 therefore complies with s. 18(9) of the *Act*.
14. The landlord testified that this was a month-to-month lease. LL#2 provides three full months' notice, as required under s. 18(2)(b).
15. The termination notice complies with relevant sections of the *Act* and is therefore valid. The tenancy terminated on 30-November-2023.
16. Insofar as the tenant is still residing at the premises, they are doing so illegally.

Decision

17. The termination notice is valid. An order of vacant possession will be granted.

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 Sheriff, should the landlord be required to have the Sheriff enforce the attached Order of Possession.
20. The landlord is granted an order of possession.

4-July-2024

Date

Seren Cahill
Residential Tenancies Office