

## **Residential Tenancies Tribunal**

Application 2024-0250-NL

Oksana Tkachuk  
Adjudicator

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### **Introduction**

1. Hearing was called at 2:00 p.m. on 3-July-2024.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as “the tenant” did not attend.

### **Preliminary Matters**

4. The tenant was not present or represented at the hearing and I was unable to reach him 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 the claim and notice of the hearing 10 clear days prior to the hearing date and, where the respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent’s absence so long as he/she has been properly served. The landlord’s representative submitted an affidavit with their application stating that they had served the tenant personally, on 24-May-2024 (LL#1). In accordance with the *Residential Tenancies Act, 2018* this is good service. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in his absence.
5. There is a written month to month rental agreement which commenced on 15-May-2016. Rent is \$1250.00 per month due on the first of each month. A security deposit of \$400.00 was collected in May 2016 and is in landlord’s possession.

### **Issues before the Tribunal**

6. The landlord is 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 are the following sections of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent.

### Issue # 1: Vacant Possession of the Rented Premises

#### Relevant Submissions:

9. The landlord's representative submitted a copy of termination notice under Section 19: Notice where failure to pay rent. The notice is signed and dated 23-February-2024 and was served by prepaid registered mail and by hanging it on the tenant's door on that day, with a termination date of 7-March-2024 (LL#2).

#### Landlord's Position:

10. The landlord's representative testified that rent has been in arrears since December-2023, and that the tenant refuse to pay rent in full. The landlord's representative stated that the total amount of monies the tenant owes is \$4500.00 up to the hearing date. The landlord's representative submitted a rental ledger to support their claim (LL#3).

### Analysis

11. Section 19 of the *Residential Tenancies Act, 2018* states:

#### ***Notice where failure to pay rent***

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

**(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.*

12. The tenant was in rent arrears in excess of the 5 days when the termination notice was served. On the date of termination, 7-March-2024 the tenant was still in arrears. In

accordance with Section 19 of the *Residential Tenancies Act, 2018* as stated above, the termination notice meets the requirements of the *Act* and is a valid notice.

13. I find that the tenant should have vacated the property by 7-March-2024.

**Decision**

14. The landlord's claim for an order for vacant possession of the rented premises succeeds.

**Summary of Decision**

30. The tenant shall vacate the property immediately.

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

July 5, 2024

Date

Oksana Tkachuk, Adjudicator  
Residential Tenancies Office