

Residential Tenancies Tribunal

Application 2024-0455-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 25-June-2024 at 1:52 pm.
2. The applicant, [REDACTED] hereinafter referred to as the landlord, was represented at the hearing by [REDACTED] and [REDACTED], who attended via teleconference.
3. The respondent, [REDACTED], hereinafter referred to as the tenant, also attended via teleconference.

Preliminary Matters

4. Another individual, the respondent's mother, had also been named as tenant on the initial application. However, this individual did not attend and had vacated the premises by the time of the hearing. The application was amended to remove her as a party.

Issues before the Tribunal

5. Should the landlord's application for an order of vacant possession be granted?

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 and referred to in this decision are sections 18 and 34 of the *Act*, as follows:

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.

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: Vacant Possession of the Rental Premises

Landlord's Position

8. The landlord submits that they provided a valid termination notice, that the termination date has come to pass, and that they therefore are entitled to take possession of the rental premises.

Tenant's Position

9. The tenant is opposed to the granting of an order of vacant possession. He submits that he was hoping to find alternative accommodations with the landlord. He says their mandate is to provide housing to people like himself. He feels the landlord is being unreasonable.

Analysis

10. In order to receive an order for vacant possession, a landlord must have issued a valid termination notice. To be valid, a termination notice must comply with all relevant sections of the Act. The landlord submitted a termination notice (LL#1) they had issued on the tenant.

11. LL#1 is in writing but not in the form prescribed by the minister. However, s. 22(f) of the *Interpretation Act*, RSNL 1990, 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. It contains the name and the address of the recipient. It identifies itself as being under s. 18 of the Act. The deviation from the form does not affect the substance of the contents nor do I have reason to believe it was calculated to mislead. It therefore complies with s. 34 of the Act.
12. LL#1 was signed by the representative of the landlord who provided it. It states the date on which the rental agreement terminates and the tenant is required to vacate the premises as 30-April-2024. It was served on the tenant in accordance with s. 35(2)(a) of the Act. It was issued on 17-January-2024, 14 days before the first day of the relevant rental period. It therefore complies with s. 18(9) of the Act.
13. LL#1 provides three full months' notice, as required under s. 18(2)(b).
14. The termination notice complies with relevant sections of the *Act* and is therefore valid. The tenancy terminated on 30-April-2024.
15. Insofar as the tenant is still residing at the premises, they are doing so illegally.

Decision

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

Summary of Decision

17. The tenant shall vacate the premises immediately.
18. 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.
19. The landlord is granted an order of possession.

12-July-2024

Date

