

Residential Tenancies Tribunal

Application 2024-0514-NL

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:59 p.m. on 16-July-2024.
2. The applicant, [REDACTED] (applicant 1), hereinafter referred to as “the landlord”, attended the hearing. The applicant, [REDACTED] (applicant 2), hereinafter referred to as “the landlord”, did not attend.
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 claim and notice of 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 has been properly served. The landlords submitted an affidavit with their application stating that they had served the tenant with the notice of hearing electronically by email to; [REDACTED] on 4-July-2023 (LL#1). The landlords submitted proof of email address and proof that the email was sent (LL#2). 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 term rental agreement which commenced on 1-May-2023. Rent is \$650.00 per month, due on the first of each month. A security deposit of \$325.00 was paid on 1-May-2023 and is in the 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*. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 24; Notice where tenant contravenes peaceful enjoyment and reasonable privacy.

Issue # 1: Vacant Possession of the Rented Premises

Relevant Submissions

8. The landlord submitted a copy of a termination notice that was given on a *Landlord's Notice to Terminate Early – Cause* form (LL#3). The notice was issued to the tenant on 3-June-2024 under Section 24; *Notice where tenant contravenes peaceful enjoyment and reasonable privacy* to vacate on 8-June-2024.

Analysis

9. The termination notice was given on 3-June-2024 under Section 24; *Notice where tenant contravenes peaceful enjoyment and reasonable privacy* to vacate on 8-June-2024. The termination date was given less than 5 days after the notice was served which does not meet the requirements as set out in the *Act*. I find that the termination notice is not a valid notice from a timeline perspective and as such was not further analyzed for validity under Section 24 of the *Act*.

Decision

10. The landlord's claim for vacant possession of the rented premises does not succeed.

July 24, 2024

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office