

Residential Tenancies Tribunal

Application 2024-0536-NL

Michael Reddy
Adjudicator

Introduction

1. Hearing was held on 5-August-2024 at 9:15 am.
2. The applicant, [REDACTED] hereinafter referred to as the landlord, was represented at the hearing by [REDACTED], who attended via 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 them 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 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 they have been properly served. The landlord submitted an affidavit (LL#1) with their application stating that they had served the tenant with notice of the hearing personally on 8-July-2024 at 3:30 pm. 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 their absence.
5. There was a written week-to-week rental agreement in place which commenced in August 2023 (LL#2).

Issues before the Tribunal

6. The landlord is seeking an Order for Vacant Possession.

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* (the *Act*).

8. Also considered and referred to in this decision are sections 18(2), 18(9), 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.

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

9. In order to receive an order for vacant possession, a landlord must issue a valid termination notice. To be valid, a termination notice must comply with all relevant sections of the *Act*. The landlord submitted LL#3, a termination notice she says was served on the tenant in person.

10. LL#3 is in writing in the form prescribed by the minister. It contains the name and address of the recipient. It identifies the residential premises for which it was given. It states it is issued under s. 18 of the Act. It therefore complies with s. 34.
11. LL#3 was signed by a representative of the landlord who provided it. It was given on 12-June-2024, was not less than 4-weeks before the end of the rental period after the notice was served and it states the date on which the rental agreement is to terminate. It was served personally in accordance with s. 35(2)(a) of the Act. It therefore complies with s. 18(9).
12. LL#3 complies with all relevant sections of the *Act* and is therefore valid.

Decision

13. A valid termination notice was issued which gives a move out date of 31-July-2024. The rental agreement terminated on that date. Insofar as the tenant is still residing at the premises, they are doing so illegally.
14. The landlord's application for an order of vacant possession succeeds.

Summary of Decision

15. The tenant shall vacate the premises immediately.
16. 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.
17. The landlord is granted an order of possession.

27-August-2024

Date



Michael Reddy, Adjudicator
Residential Tenancies