

Residential Tenancies Tribunal

Application 2024-0601-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 1:46 p.m. on 30-July-2024.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent 1 [REDACTED], hereinafter referred to as “the tenant” attended via teleconference. The respondent 2 [REDACTED], hereinafter referred to as “the tenant” did not attend, however he was represented by respondent 1.

Preliminary Matters

4. The landlord submitted two affidavits with his application stating that he had served the tenants with the notice of the hearing electronically by emails to:
[REDACTED], [REDACTED],
[REDACTED] on 17-July-2024 (LL#1). Respondent 1 confirmed that both she and respondent 2 received the notice of the hearing on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service, and the hearing proceeded.
5. There was a written term rental agreement that commenced on 1-June-2021 till 31-May-2022 and is currently a month-to-month rental agreement. Rent is \$845.00 per month due on the first of each month.
6. The landlord amended the application to include hearing expenses in the amount of \$20.00.

Issues before the Tribunal

7. The landlord is seeking:
 - Validity of termination notice;
 - An Order for Vacant Possession of the rented premises;
 - Hearing expenses \$20.00;

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*.
9. Also, relevant and considered in this decision is the following section of the *Residential Tenancies Act, 2018*: Section 19: Notice where failure to pay rent and section 12-1 of the *Residential Tenancies Policy*: Recovery of costs.

Issue # 1: Vacant Possession of the Rented Premises

Relevant Submissions:

10. The landlord provided copies of three termination notices. The most recent termination notice was issued to the tenants under Section 19: Notice where failure to pay rent. The notice is signed and dated 7-February-2024 with a termination date of 18-February-2024 (LL#2).

Landlord's Position:

11. The landlord testified that rent has been in arrears since January-2024. The landlord stated that the notice under Section 19 of the *Act* was served electronically via emails on 7-February-2024. The landlord stated that the total amount the tenants owed when the termination notice was issued was \$842.50. The landlord stated that there were no payments made by the tenants after the termination notice was issued and on a termination date 18-February-2024 rent was still in arrears. The landlord stated that there were no payments for rent since 20-February-2024 and current amount the tenants owe is \$4717.50. The landlord submitted the rental ledger to support his claim (LL#3).

Tenant's position:

12. The tenant did not dispute that the rent is in arrears and agreed that both she and respondent 2 received the termination notice on that date.

Analysis

13. 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.*

14. I accept that the tenants were in rent arrears in excess of the 5 days when the termination notice was served. On the date of termination, 18-February-2024 the tenants were 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. The landlord provided copies of three termination notices, however as the latest termination notice is a valid notice, we will not consider the validity of other termination notices for the purpose of this decision.

15. I find that the tenants should have vacated the property by 18-February-2024.

Decision

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

Issue # 2: Hearing expenses \$20.00.

Analysis

17. Section 12-1 of the *Residential Tenancies Policy* states that in general, claimable costs may include the filing fee. The landlord paid \$20.00 for the application and is seeking reimbursement. As the landlord's claim has been successful, the tenants shall pay the hearing expenses.

Decision

18. The landlord's claim for hearing expenses succeeds in the amount of \$20.00.

Summary of Decision

19. The tenants shall pay the landlord \$20.00 for the hearing expenses.

20. The tenants shall vacate the property immediately.

21. The tenants 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.

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

August 5, 2024

Date

Oksana Tkachuk, Adjudicator
Residential Tenancies Office