

Residential Tenancies Tribunal

Application 2024-0624-NL

Michael Reddy
Adjudicator

Introduction

1. Hearing was held on 28 August 2024 at 9:12 AM via teleconference.
2. The applicant, [REDACTED], represented by [REDACTED], [REDACTED] with [REDACTED], hereinafter referred to as the landlord, was in attendance and offered testimony.
3. The respondent, [REDACTED], hereinafter referred to as the tenant, was in attendance and offered testimony.

Preliminary Matters

4. The landlord submitted an affidavit (LL # 1) with the application stating the tenant had been served the notice of the hearing via registered mail ([REDACTED]) on 5 August 2024. The tenant confirmed receipt of the documents. In accordance with the *Residential Tenancies Act, 2018*, this is considered good service.
5. The tenant has resided on the property since 1 September 2021. The rental agreement is described as a written month to month agreement and a copy was provided (LL # 2), with rent in the amount of \$263.00 per month due on the 1st of each month.

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 of the Rental Premises

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 that was served on the tenant by registered mail ([REDACTED]) on 12-April-2024 with a termination date of 31-July-2024. The tenant did not dispute receipt of the Section 18 notice.

10. LL#3 is in writing but not in the form prescribed by the minister, contrary to s. 34(a) of the *Act*, above. 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. LL#3 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 the landlord's agent who delivered the notice on 12-April-2024 via registered mail, was not less than 3-months 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 a valid notice.


Analysis

13. A valid termination 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, he is doing so illegally.
14. The landlord's application for an order for 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 Sherriff, should the landlord be required to have the Sheriff enforce the attached Order of Possession.
17. The landlord is granted an order of possession.

30 August 2024
Date



Michael Reddy, Adjudicator
Residential Tenancies Office