

Residential Tenancies Tribunal

[REDACTED] Decision 20-0359-05

Michael Greene
Adjudicator

Introduction

1. The hearing was called at **1:30 pm** on **23 September 2020** at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador via Bell Teleconferencing System.
2. The applicant, [REDACTED], hereafter referred to as landlord ([REDACTED]), did not participate in the hearing and was represented by [REDACTED]. *(Affirmed)*
3. The respondent, [REDACTED], hereafter referred to as tenant ([REDACTED]), participated in the hearing. *(Affirmed)*
4. The respondent, [REDACTED], hereafter referred to as tenant ([REDACTED]), participated in the hearing. *(Affirmed)*.
5. The details of the claim were presented as a written monthly rental agreement with rent set at \$800.00 per month and due on the 1st of each month. There was a security deposit in the amount of \$200.00 collected on the tenancy on or about 22 July 2005. The landlord issued a termination notice dated 01 June 2020 for the intended termination date of 31 August 2020 under Section 18 of the *Residential Tenancies Act, 2018*.
6. In a proceeding under the *Residential Tenancies Act, 2018*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

Preliminary Matters

7. The tenants, [REDACTED] and [REDACTED] were present and participated in the hearing.

The tenants were served with the notice of this hearing on the **05 September 2020** by serving the application for dispute resolution document personally to [REDACTED] at the rental unit address.

The landlord was never served with the notice of this hearing. The landlord waived their right of the 10 days of service and wished to continue with the hearings.

8. The claim was amended at the onset to reflect the legal name of ([REDACTED]) to be [REDACTED].

Issues before the Tribunal

9. The landlord is seeking the following:

- a) Vacant possession of the rented premises
- b) Hearing Expenses

10. The tenants are seeking the following:

- c) Validity of the Termination Notice
- d) Hearing Expenses

Legislation and Policy

11. The jurisdiction of the Director of Residential Tenancies is outlined in the *Residential Tenancies Act, 2018 (the Act)*, Section 47.

12. Also relevant and considered in this case are Sections 18, 34 and 35 of *the Act*, and Policy 12-1: *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*.

Issue 1: Vacant Possession of the Rented Premises

Landlord Position

13. The landlord is seeking to recover possession of the rented premises located at [REDACTED].
14. The landlord testified that the parties entered into a written month to month rental agreement on 22 July 2005 (**Exhibit L # 2**). Further, the landlord submitted a copy of the termination notice issued to the tenants dated and served on 01 June 2020 for the intended termination date of 31 August 2020 (**Exhibit L # 1**) issued under section 18.
15. The landlord indicated that as of the hearing date (23 September 2020), the tenants remain in the unit. The landlord further testified that to the best of their knowledge, there are 2 adults living in the unit.

Tenant Position

16. [REDACTED] testified that he is challenging the validity of the termination notice because "the landlord representative is nothing but a bully and referred to my wife as a lousy housekeeper".

Analysis

17. The validity of the termination notice is determined by its compliance with the notice requirements identified in sections 18(2)(b), 18(9) and 34 as well as the service requirements identified in section 35.
18. The landlord testified that she is seeking the return of the property as a result of the issuance of the no cause notice under section 18 of the *Residential Tenancies Act, 2018*.
19. Section 18 (2)(b) requires that a landlord shall give the tenants notice that the rental agreement is terminated and the tenants are required to vacate the residential premises not less than 3 months before the end of the rental period where the rental premises is rented from month to month. On examination of the termination notice issued and submitted into evidence (**Exhibit L # 1**), I find the notice was served on 01 June 2020 with a termination date of 31 August 2020. I find that as the date of termination identified on the notice is at least 3 months before the end of the rental period, the termination notice is in full compliance with the requirements of section 18(2)(b) and 18(9).

20. Sections 18 (9) and 34 identify the technical requirements of the termination notice as identified below. On examination of the termination notice, I find it all these criteria have been met.

section 19 (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.*

section 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.*

21. The landlord testified that the termination notice was posted in a conspicuous place on the residential premises which is a permitted method of service identified under section 35.

22. According to the reasons identified above, I find that the termination notice issued by the landlord to be proper and valid. Therefore, the landlord is entitled to an order for vacant possession of the property along with an order for any and all costs associated with the Sheriff to enforce such a Possession Order should the Sheriff be engaged to execute the Possession Order.

Decision

23. The landlord's claim for vacant possession succeeds. The landlord is further awarded costs associated with the enforcement of the Possession Order by the High Sheriff of NL.

Issue 2: Hearing Expenses

Landlord Position

24. The landlord paid a fee in the amount of \$20.00 as an application filing fee and presented a receipt from Service NL ([REDACTED]) (**Exhibit L # 3**). The landlord is seeking this cost.

Tenant Position

25. The tenants paid a fee in the amount of \$20.00 as an application filing fee and presented a receipt from Service NL ([REDACTED]) (**Exhibit T # 1**). The tenants are seeking this cost.

Analysis

26. I have reviewed the testimony and evidence of the landlord and tenants in this matter. The expenses incurred by the landlord and tenants are considered a reasonable expense and are provided for with in Policy 12-1 *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*. The landlord's claim has been successful and as such, I find the tenants are responsible to cover the reasonable expenses of the landlord in addition to their own expenses.

Decision

27. The tenants shall pay the reasonable expenses of the landlord in the amount of \$20.00.

Summary of Decision

28. The landlord is entitled to the following:

- Vacant Possession of the Rented Premises**
- Hearing Expenses in the amount of \$20.00**
- An order for any and all costs associated with the Sheriff to enforce such a Possession Order should the Sheriff be engaged to execute the Possession Order.**

25 September 2020

Date

Michael Greene
Residential Tenancies Tribunal