

Residential Tenancies Tribunal

[REDACTED] Decision 19-0056-01

Michael Greene
Adjudicator

Introduction

1. The hearing was called at 9:00 am on 02 October 2019 at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador via teleconference.
2. The applicant, [REDACTED], hereafter referred to as the landlord, participated in the hearing. The landlord was represented by [REDACTED] of [REDACTED] (affirmed).
3. The respondent, [REDACTED], hereafter referred to as the tenant, participated in the hearing.
4. The details of the claim were presented as a written monthly rental agreement with rent set at \$765.00 per month and due on the 1st of each month. There was a security deposit collected in the amount of \$200.00 on the tenancy on 01 Sept 2008. The landlord issued a termination notice dated 09 May 2019 for the intended termination date of 31 August 2019 under Section 18(2)(b) of the *Residential Tenancies Act, 2018*. The application for dispute resolution was filed by the landlord on 15 August 2019.
5. 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

6. The affidavit submitted by the landlord shows that the tenant was served with the notice of this hearing on the **06 September 2019** by serving the documents to the tenant via registered Mail [REDACTED] at the rental address. The tenant has had **25 days** to provide a response.

Issues before the Tribunal

7. The landlord is seeking the following:
 - a) Vacant possession of the rented premises
 - b) Hearing expenses

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in the *Residential Tenancies Act, 2018 (the Act)*, Section 47.
9. Also relevant and considered in this case are Sections 17, 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

10. The landlord is seeking to recover possession of the rented premises located at [REDACTED].
11. The landlord testified that a notice to terminate was issued under Section 18(2)(b) of *the Act, 2018 (Exhibit L # 1)* to terminate the tenancy on 31 August 2019. The landlord testified that the notice to terminate was served personally by the landlord to the tenant on 08 May 2019. The landlord indicated that as of the hearing date (02 October 2019), the tenant remained in the unit. The landlord further testified that to the best of her knowledge, there is 1 adult living in the unit.

Tenant Position

12. The tenant indicated he had nothing to add to the hearing other than to indicate that he didn't understand why the termination notice was issued. The tenant stated that shortly after the result of the last hearing [REDACTED] was received, he was issued the current notice to terminate (**Exhibit L # 1**) without what he sees as a reason.

Analysis

13. The validity of the termination notice is determined by its compliance with the notice requirements identified in sections 18(2)(b) and 34 as well as the service requirements identified in section 35.
14. The landlord in this instance has issued a termination notice under section 18(2)(b) of the *Residential Tenancies Act, 2018*.
15. Section 18 (2)(b) is the appropriate section to terminate a tenancy for no cause and requires that when a premises is rented for month to month, the landlord may terminate the tenancy and the tenant is required to vacate the residential premises on a date not less than 3 months before the end of the rental period where the residential premises is rented month to month. On examination of the termination notice issued and submitted into evidence (**Exhibit L # 1**), I find the notice was served on 08 May 2019 with a termination date of 31 August 2019. Under the *Residential Tenancies Act, 2018*, the notice requirements are met as required. As such, I find that the termination notice is in full compliance with the requirements of section 18 (2) and 34.
16. Sections 18 (2) and 34 identify the technical requirements of the termination notice as identified below. On examination of the termination notice, I find that all these criteria have been met.

section 18 (2)(b)

A landlord shall give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises

(b) not less than 3 months before the end of the rental period where the residential premises is rented month to month; and

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.*

17. 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

18. The landlords' 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

19. 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**) and a receipt from Canada Post in the amount of \$13.11 for the service of documents via registered mail [REDACTED]. The landlord is seeking these costs.

Tenant Position

20. The tenant was aware of what is being sought as hearing expenses.

Analysis

21. I have reviewed the testimony and evidence of the landlord and tenant in this matter. The expenses incurred by the landlord 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 tenant shall cover the hearing expenses of the landlord as indicated above.

Decision

22. The landlord's claim for hearing expenses succeeds in the amount of \$33.11.

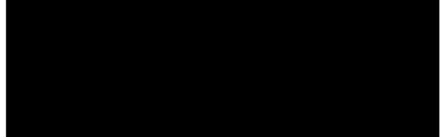
Summary of Decision

23. The landlords are entitled to the following:

- a) Hearing Expenses \$33.11
- b) **Total owing to Landlords** \$33.11
- c) **Vacant Possession of the Rented Premises.**
- d) 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.

07 October 2019

Date


Michael Greene
Residential Tenancies Tribunal