

Residential Tenancies Tribunal

Application [REDACTED]

Decision 20-0456-05

Michael Greene
Adjudicator

Introduction

1. The hearing was called at **9:00 am** on **06 November 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 the landlord, participated in the hearing. The landlord was represented by [REDACTED] – **Affirmed.**
3. The respondent, [REDACTED] hereafter referred to as tenant1, participated in the hearing – **Affirmed.**
4. The respondent, [REDACTED] hereafter referred to as tenant2, participated in the hearing – **Affirmed.**
5. The details of the claim were presented as a written monthly rental agreement and rent due on the 1st of each month. There was a security deposit in the amount of \$667.50 and currently being held by the landlord. The landlord issued a termination notice dated 29 June 2020 for the intended termination date of 30 September 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 affidavit submitted by the landlord shows that tenant1 was served with the notice of this hearing on the **19 October 2020** by serving the original documents to tenant1 by Register Mail ([REDACTED]) to the rented premises.
8. The affidavit submitted by the landlord shows that tenant2 was served with the notice of this hearing on the **19 October 2020** by serving the original documents to tenant2 by Register Mail ([REDACTED]) to the rented premises.

Issues before the Tribunal

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

Legislation and Policy

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

12. The landlord is seeking to recover possession of the rented premises located at [REDACTED]
13. The landlord testified that they are looking to have their property returned as per the *Residential Tenancies Act, 2018*.
14. The landlord testified that a notice to terminate was issued under Section 18 of *the Act* (**Exhibit L # 1**) to terminate the tenancy on 29 June 2020. The landlord testified that the notice to terminate was personally served to the tenants at the rented premises 29 June 2020. The landlord indicated that as of the hearing date

(06 November 2020), the tenants remained in the unit. The landlord further testified that to the best of her knowledge, there are 2 adults and 2 children aged 2 & 5 years living in the unit.

Tenant Position

15. The tenants stated that they have been attempting to secure a place but they haven't been successful. They indicated that they are looking for a bit more time and couldn't understand why the landlord failed to provide any reason for the eviction.

Analysis

16. The validity of the termination notice is determined by its compliance with the notice requirements identified in sections 18 (9) and 34 as well as the service requirements identified in section 35.
17. Section 18 (2)(b) 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. On examination of the termination notice issued and submitted into evidence (**Exhibit L # 1**), I find the notice was served on 29 June 2020 with a termination date of 30 September 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 and the date the tenant is required to move out, the termination notice is in full compliance with the requirements of section 18 (2) (b). Sections 19 (4) 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 18 (9)

In addition to the requirements under Section 34, a notice under this section shall

- (a) be signed by the landlord;*
- (b) be given not later than the first day of a rental period*
- (c) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and*
- (d) 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.*

18. To address the tenants concern that they have not been provided with any reason for the termination notice, I point to the notice itself. The indication of the section is the required reason for the issuance of the notice. Section 18 is typically referred to as a “no cause’ notice and this section provides the longest period of notice to a tenant under the *Residential Tenancies Act, 2018*.
19. As identified above, the landlord testified that the termination notice was served personally to the tenants at the rented premises which is a permitted method of service identified under section 35.
20. 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

21. 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

22. 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 also paid \$25.42 to Canada Post (**Exhibit L # 4**) for Registered mail to serve the documents. The landlord is seeking these costs.

Analysis

23. I have reviewed the testimony and evidence of the landlord 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*. As such, I find the tenants are responsible to cover these reasonable expenses.

Decision

24. The tenants shall pay the reasonable expenses of the landlord in the amount of \$45.42

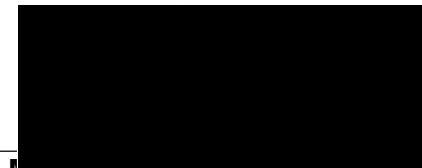
Summary of Decision

25. The landlord is entitled to the following:

- a) **Hearing Expenses.....\$45.42**
- b) **Vacant Possession of the Rented Premises.**
- c) **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.**

09 November 2020

Date



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Residential Tenancies Tribunal