

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0058-03

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 9:44 a.m. on 18-November-2021.
2. The applicant, [REDACTED] represented by [REDACTED] hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED] hereinafter referred to as “the tenant” did not attend.

Preliminary Matters

4. The tenant was not present or represented at the hearing and I was unable to reach her by telephone at the start of the hearing. This Tribunal’s policies concerning notice requirements and hearing attendance have been adopted from the *Rules of the Supreme Court, 1986*. According to Rule 29.05(2)(a) respondents to an application must be served with claim and notice of the hearing 10 clear days prior to the hearing date and, where the respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent’s absence so long as she has been properly served. The landlord submitted an affidavit (LL#01) with her application stating that she had served the tenant with notice of the hearing, by registered mail. The mail was sent on 06-October-2021, it was not collected and was returned to the sender on 28-October-2021 as per the enclosed tracking sheet (LL#01). Five days after notification has been sent by registered mail it is considered served. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in her absence.

Issues before the Tribunal

5. The landlord is seeking an order for vacant possession and reimbursement of hearing expenses.

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
7. Also relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 18: Notice of termination of rental agreement and Section 35: Service of documents.

Issue 1: Vacant Possession of the Rental Premises

Relevant submissions:

8. The landlord and tenant entered into a written, monthly, rental agreement (LL#02) in September 2020. The tenant moved in on 15-September-2020 her rent is \$263.00 due on the 1st of each month. Her rental period is from the 1st to the last day of each month. There was no security deposit paid and she is entitled to a heat subsidy of \$1,515.00 per year.
9. The landlord served the tenant a Notice to terminate – Standard (LL#03). The notice is signed on 11-June-2021 with a termination date of 30-September-2021. The landlord testified that she sent it to the email provided by the tenant on 11-June-2021 and then by registered mail on 25-June-2021.

Analysis

10. The *Residential Tenancies Act, 2018* Section 18 (2) & (9) states:

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.

....

11. The landlord and tenant were in a monthly rental agreement at the time of the notice. The landlord provided 3 full months in the eviction notice.
12. The landlord is entitled to give 3 months' notice without providing the reasons to this tribunal or the tenant.
13. The landlord's notice (LL#03) follows the guidelines outlined in the act.

Decision

14. The landlord's claim for an order for vacant possession of the rented premises succeeds.
15. The tenant shall pay to the landlord the cost 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.

Issue 2: Hearing Expenses

Decision

16. The landlord incurred the cost of filing for the hearing \$20.00 and the cost of registered mail \$12.86, she provided a receipt for both totaling \$32.86 (LL#04).
17. The tenant shall reimburse the landlord for the cost of hearing expenses totaling \$32.86.

Summary of Decision

18. The landlord is entitled to the following:
 - An order for vacant possession of the rented premises,
 - The tenant shall vacate the property immediately.
 - The tenant shall also 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.
 - The tenant shall pay the landlord the hearing expenses \$32.86.

November 23, 2021
Date

