

Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0487-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 AM on 17 February 2022 via teleconference.
2. The applicant, [REDACTED] hereinafter referred to as “the tenant”, participated in the hearing.
3. The respondent, [REDACTED] hereinafter referred to as “the landlord”, did not participate.

Issues before the Tribunal

4. The tenant is seeking the following:
 - A determination of the validity of a termination notice issued to him on 05 October 2021, and
 - An order for a payment of \$115.00 in “other” expenses.

Legislation and Policy

5. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
6. Also relevant and considered in this case are sections 10 and 22 of the *Residential Tenancies Act, 2018*.

Preliminary Matters

7. The landlord was not present or represented at the hearing and I was unable to reach him by telephone. 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 he has been properly served. The tenant submitted an affidavit with his application stating that he had personally served the landlord with notice of the hearing on 08 December 2021 and the landlord has had 70 days to provide a response. As the landlord was properly served, and as any further delay in these proceedings would unfairly disadvantage the tenant, I proceeded with the hearing in his absence.

Issue 1: Validity of Notice

Relevant Submissions

8. The tenant stated that he had entered into a 1-year, fixed-term lease with the landlord about 7 years ago, in 2014. The current rent is set at \$895.00 and the tenant stated that he had paid a security deposit of \$640.00.
9. The tenant testified that on 05 October 2021 a representative for the landlord, ■■■, posted a termination notice to the door of the rental unit and a copy of that notice was submitted with his application (■■■ #1). That notice was issued under section 22 of the *Residential Tenancies Act, 2018* (notice where tenant's obligations not met) and it had an effective termination date of 12 October 2021.
10. Through this application, the tenant is questioning the validity of that termination notice. He testified that he has not caused any damage to his rental unit and that he keeps it clean and tidy, as he has business clients visiting him at the unit. He also stated that he had not received any prior notice from the landlord informing him to carry out any repairs or to complete any cleaning.

Analysis

11. Statutory condition 2, set out in section 10.(1) of the *Residential Tenancies Act, 2018* states:

Statutory conditions

10. (1) Notwithstanding an agreement, declaration, waiver or statement to the contrary, where the relationship of landlord and tenant exists, there shall be considered to be an agreement between the landlord and tenant that the following statutory conditions governing the residential premises apply:

...

2. Obligation of the Tenant - The tenant shall keep the residential premises clean, and shall repair damage caused by a wilful or negligent act of the tenant or of a person whom the tenant permits on the residential premises.

and section 22 of this Act states:

Notice where tenant's obligation not met

22. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes statutory condition 2 set out in subsection 10(1), the landlord may give the tenant notice requiring the tenant to comply with the condition.

(2) Where a tenant contravenes statutory condition 2 set out in subsection 10(1) within 3 days after the notice under subsection (1) has been served or within a reasonable time, the landlord may give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises on a specified date not less than 5 days after the notice has been served.

(3) 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.

12. The landlord did not attend the hearing to provide any evidence to the Board to establish that the tenant had contravened statutory condition 2, quoted above, and it was the tenant's testimony, which I accept, that he keeps his unit clean and that he had not caused any damage to the property.
13. I also accept the tenant's testimony that the landlord had not provided him with any notice to comply with that statutory condition, as required under subsection 22.(1).
14. For those reasons, the termination notice issued to the tenant on 05 October 2021 is not valid.

Decision

15. The termination notice issued to the tenant on 05 October 2021 is not a valid notice.

Issue 2: “Other” Expenses - \$115.00

Relevant Submissions

16. The tenant stated that sometime in November 2021, [REDACTED] the owner of the property management company he rents from, visited his unit, while the tenant was at home, and removed the locks to his main door. The tenant testified that he had called the police about his matter, and he complained that he had to replace the locks that [REDACTED] had removed, at his own cost.
17. The tenant stated that he had called a local locksmith to replace the locks and he testified that he was charged \$115.00.

Analysis

18. I accept the testimony of the tenant in this matter and I find it probable that [REDACTED] had removed the locks from the tenant’s unit, without his consent, and in contravention of statutory condition 6, set out in section 10 of the *Residential Tenancies Act, 2018*.
19. I also accept the tenant’s testimony that he was required to purchase new locks and I find it probable that he was charged \$115.00 to have those new locks installed. As such, the tenant’s claim succeeds.

Decision

20. The tenant’s claim for the costs of purchasing new locks for the rented premises succeeds in the amount of \$115.00.

Summary of Decision

21. The termination notice issued to the tenant on 05 October 2021 is not a valid notice.
22. The tenant is entitled to a payment of \$115.00 in compensation for the costs of having to purchase new locks.

22 February 2022

Date

