

Residential Tenancies Tribunal

Decision 19-0552-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:00 pm on 28 November 2019 at the Government Service Centre, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant and landlord, [REDACTED], was represented at the hearing by [REDACTED] and [REDACTED], hereinafter referred to as "[REDACTED]" and "[REDACTED]", respectively. The respondent, [REDACTED], hereinafter referred to as "the tenant", also participated.

Issues before the Tribunal

3. The landlord is seeking an order for vacant possession of the rented premises.

Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case are sections 18 and 35 of the *Residential Tenancies Act, 2018*.

Issue 1: Vacant Possession of the Rented Premises

Relevant Submissions

The Landlords' Position

6. ■ stated that the landlord had entered into a monthly rental agreement with the tenant on 21 September 2009 and a copy of that agreement was submitted with the landlord's application (■ #1). The current rent is set at \$263.00.
7. ■ stated that on 27 February 2019 the landlord sent the tenant a termination notice by registered mail and a copy of that notice was submitted with the landlord's application. That notice was issued under section 18 of the *Residential Tenancies Act, 2018* (notice of termination of rental agreement) and it had an effective termination date of 30 June 2019.
8. Also submitted with the application was the tracking history associated with that notice (■ #3). That tracking history showing that 2 notice cards were left at the tenant's unit, on 01 March and 06 March 2019, but that notice was never collected and it was eventually returned to the landlord.
9. ■ stated that the tenant has not vacated as required and she is seeking an order for vacant possession of the rented premises.

The Tenant's Position

10. The tenant was very upset at the hearing and very upset that she is being evicted by her landlord.
11. She pointed out that she has 3 children and they are going to be devastated that they will have to move. She also point out that it was particularly stressful given how close it is to Christmas.
12. The tenant stated that she has severe anxiety and she is on a very low income and she does not know where she will go if she is evicted.

Analysis

13. The relevant subsections of s.18 of the *Residential Tenancies Act, 2018* state:

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

...

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

...

(9) In addition to the requirements under section 34, a notice under this section shall

- (a) *be signed by the person providing the notice;*
- (b) *be given not later than the first day of a rental period;*
- (c) *state the date, which shall be the last day of a rental period, on which the rental agreement terminates and the tenant intends to vacate the residential premises or the date by which the tenant is required to vacate the residential premises; and*
- (d) *be served in accordance with section 35*

14. The relevant subsections of section 35 of this Act state:

Service of documents

35. (2) *A notice or other document under this Act other than an application under section 42 shall be served by a landlord on a tenant by*

...

(e) sending it to the tenant by prepaid registered mail or prepaid express post at an address

(i) provided by the tenant, or

(ii) where the tenant carries on business;

...

(5) For the purpose of this section, where a notice or document is sent by registered mail or express post, it shall be considered to have been served on the fifth day after mailing, and the service may be proved by providing evidence that the notice or document was prepaid and properly addressed and sent.

- 15. As the notice was sent by registered mail, then according to section 35.(5), it is considered to have been served on her on 04 March 2019.
- 16. Section 18 of the Act allows a landlord to terminate a rental agreement, on 3 month's notice, without having to provide reasons to either the tenant or this Board.
- 17. As the notice meets all the requirements set out in section 18 of the Act and as it was properly served, it is a valid notice.

Decision

- 18. The landlord's claim for an order for vacant possession of the rented premises succeeds.

19. The tenant shall 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.

Issue 2: Hearing Expenses

20. [REDACTED] submitted a hearing expense claim form as well as a receipt for \$20.00 for the costs of filing this application. As the landlord's claim has been successful, the tenant shall pay this hearing expense.

Summary of Decision

21. The landlord is entitled to the following:

- An order for vacant possession of the rented premises,
- 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 to the landlord the amount of \$20.00.

03 December 2019

Date

[REDACTED]
John R. Cook
Residential Tenancies Tribunal