

## Residential Tenancies Tribunal

Decision 19-0895-05

Denise O'Brien  
Adjudicator

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### Introduction

1. The hearing was called at 9:20 a.m. on January 14, 2020 at Residential Tenancies, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL.
2. The applicant, [REDACTED], represented by [REDACTED], hereafter referred to as the landlord, participated in the hearing.
3. The respondent, [REDACTED], hereafter referred to as the tenant, participated in the hearing through a conference call.

### Preliminary Matters

4. The application was amended to reflect the tenant's name as [REDACTED].

### Issues before the Tribunal

5. The landlord is seeking the following:
  - a. Vacant possession of the rental premises;
  - b. Hearing expenses.

### Legislation and Policy

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

7. 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 and Hearing Expense, Interest, Late Payment and NSF*.

### **Issue 1: Vacant Possession of the Rental Premises**

8. An application for vacant possession is determined by the validity of the termination notice issued by the landlord. In this case, the termination notice was issued under Section 18 of the Act.

#### Landlord Position

9. The landlord testified that the tenant moved into the unit in December 2000 on a month to month tenancy with rent due on the 1<sup>st</sup> of each month. The current rate of rent is set at \$263.00 per month. A termination notice (LL #1) under Section 18 of the *Residential Tenancies Act, 2018*, was sent by registered mail on June 5, 2019 with an effective date of September 30, 2019. Under section 18.(2)(b) no reason is required and they want their unit back. To the date of the hearing the tenant still resides in the unit.

#### Tenant Position

10. The tenant testified that she is not disputing a termination notice was sent by registered mail to her. She would like to stay in the unit.

### **Analysis**

11. Section 18.(2)(b) requires that a notice under this section be given not less than 3 months before the end of a rental period where the residential premises is rented from month to month. The notice was sent by registered mail on June 5, 2019 to vacate on September 30, 2019. After reviewing the notice I find the notice allowed the required amount of time and contains all of the necessary information to serve on the tenant as per sections 18.(9) and 34 of the Act. The notice was served in accordance with Section 35 of the Act.

### **Decision**

12. 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 should the landlord require the Sheriff to enforce the Order of Possession.

**Issue 2: Hearing Expenses - \$20.00**

- 13. Under the authority of Section 47.(q) the director may require the unsuccessful party to pay costs to the successful party to an application. Costs eligible to be awarded are identified in *Policy 12-1: Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF.*

Landlord Position

- 14. The landlord paid an application filing fee in the amount of \$20.00. The landlord is seeking this cost.

**Analysis**

- 15. The cost the landlord incurred to make the application is considered a reasonable expense as per *Policy 12-1 Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF.* As the landlord's claim was successful, the tenant is responsible to cover the cost of the hearing expenses in the amount of \$20.00.


**Decision**

- 16. The tenant shall pay the landlord's hearing costs in the amount of \$20.00.

**Summary of Decision**

- 17. The landlord is entitled to the following:
  - a) Hearing expenses..... \$20.00
  - b) Vacant Possession of the rented premises
  - c) Any cost incurred should the landlord be required to have the Sheriff enforce the attached Order of Possession.

January 16, 2020  
Date

  
Residential Tenancies Section