

## Residential Tenancies Tribunal

Decision 20-0030-02

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 9:03 am on 06 November 2020 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants”, did not participate.

### Issues before the Tribunal

3. The landlord is seeking the following:
  - a. An order for a payment of rent in the amount of \$795.00, and
  - b. 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 is section 19 of the *Residential Tenancies Act, 2018* and rule 29 of the *Rules of the Supreme Court, 1986*.

### Preliminary Matters

6. The tenants were not present or represented at the hearing and I was unable to reach them 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 respondents fail to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondents’ absence

so long as they have been properly served. The landlord submitted affidavits with her application stating that she had personally served the tenants on 15 October 2020 and they have had 21 days to provide a response. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in her absence.

### **Issue 1: Rent Owing - \$795.00**

#### **Relevant Submissions**

7. The landlord stated that she had entered into a monthly rental agreement with the tenants in October 2018. The agreed rent is set at \$700.00 per month. The landlord stated that \$435.00 of the tenants' monthly rent is paid directly to her by a government agency and the tenants are responsible for paying the remaining \$265.00 each month.
8. The landlord testified that over the past 2 years, she has only received the full rent on 6 occasions and that the tenants have been behind on their rent for 18 of the past 24 months.
9. Through this application, though, the landlord is only seeking the outstanding rent for July, August and September 2020. She stated that she had received the monthly government payment of \$435.00 for those 3 months but the tenants did not pay their \$265.00 portion. She is seeking an order for a payment of \$795.00 (\$265.00 x 3 months).

#### **Analysis**

10. I accept the landlord's testimony in this matter and I find that the tenants had not paid rent, as required, for the months of July, August and September 2020. Accordingly, her claim succeeds in the amount of \$795.00

#### **Decision**

11. The landlord's claim for a payment of rent succeeds in the amount of \$795.00.

### **Issue 2: Vacant Possession of the Rented Premises**

#### **Relevant Submissions**

12. With her application the landlord had submitted a termination notice which she stated she had personally delivered to the tenants on 19 September 2020.
13. This termination notice was issued under section 19 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 30 September 2020.

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

### **Analysis**

15. Section 19 of the *Residential Tenancies Act, 2018* states:

#### ***Notice where failure to pay rent***

**19. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b),**

...

**(b) where the residential premises is**

**(i) rented from month to month,**

**(ii) rented for a fixed term, or**

**(iii) a site for a mobile home, and**

***the amount of rent payable by a tenant is overdue for 5 days or more, the landlord may give the tenant notice that the rental agreement is terminated and that the tenant is required to vacate the residential premises on a specified date not less than 10 days after the notice is served on the tenant.***

***(2) Notwithstanding subsection (1), where the tenant pays the full amount of the overdue rent, including a fee under section 15, before the date specified in the notice under paragraph (1)(a) or (b), the rental agreement is not terminated and the tenant is not required to vacate the residential premises.***

16. On 19 September 2020, when the landlord had issued the termination notice, the tenants had been in rental arrears since at least the beginning of July 2020. No payments were made before the effective termination date set out in the notice.
17. As the termination notice was properly served and as it meets all the timeframe requirements set out in this section of the *Act*, it is valid.

### **Decision**

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


## Summary of Decision

20. The landlord is entitled to the following:

- A payment of rent in the amount of \$795.00,
- An order for vacant possession of the rented premises,
- The tenants 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.

16 November 2020

\_\_\_\_\_  
Date

  
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John R. Cook  
Residential Tenancies Tribunal