

Residential Tenancies Tribunal

Decision 19-0170-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:05 pm on 08 September 2020 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing. The respondent, [REDACTED], hereinafter referred to as “the tenant”, also participated.

Issues before the Tribunal

3. The landlord is seeking the following:
 - a. An order for a payment of rent in the amount of \$5600.00, and
 - b. An order for vacant possession of the rented premises.
4. The tenant is seeking the following:
 - a. A determination of the validity of a termination notice issued to her on 13 February 2020.

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 is section 19 of the *Residential Tenancies Act, 2018*.

Preliminary Matters

7. The landlord amended his application at the hearing and stated that she was seeking an additional \$1600.00 in rent for a total claim of \$7200.00.

Issue 1: Rent Owing - \$7200.00

Relevant Submissions

The Landlord's Position

8. The landlord stated that he had entered into a monthly rental agreement with the tenant in May 2019. The agreed rent was set at \$800.00 per month.
9. The landlord testified that rent was paid and up-to-date for the period ending 30 November 2019, but he claimed that he has received no rent since.
10. He is seeking an order for a payment of \$7200.00 for the period from 01 December 2019 to 31 August 2020, a period of 9 months, as well as a pro-rated payment of rent for September 2020.

The Tenant's Position

11. The tenant acknowledged that she had paid no rent since November 2019 and she did not dispute the landlord's claim.

Analysis

12. As the tenant did not contest the landlord's claim, I find that he is entitled to a payment of rent to the date of the hearing and a per diem thereafter.
13. I calculate the amount owing to be \$7409.84 (\$7200.00 for the period ending 31 August 2020 and \$209.84 for September 2020 (\$800.00 per month x 12 months = \$9600.00 per year ÷ 366 days = \$26.23 per day x 8 days = \$209.84)).

Decision

14. The landlord's claim for a payment of rent succeeds in the amount of \$7409.84.
15. The tenant shall pay a daily rate of rent in the amount of \$26.23, beginning 09 September 2020, and continuing to the date the landlord obtains vacant possession of the rented premises.

Issue 2: Vacant Possession of the Rented Premises
Issue 3: Validity of Termination Notice

Relevant Submissions

The Landlord's Position

16. With his application, the landlord submitted a copy of a termination notice which he stated he had e-mailed to the tenant on 13 February 2020.
17. This termination notice was issued under section 19 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 24 February 2020.
18. The landlord is seeking an order for vacant possession of the rented premises.

The Tenant's Position

19. The tenant acknowledged that she had received the termination notice but she was not sure on what date she had received it. She testified that she was going to be moving out the property at the end of the week, anyhow.

Analysis

20. 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.

21. I find it probable that the landlord had sent the termination notice to the tenant on 13 February 2020. According to the landlord's uncontested testimony, the tenant had been in rental arrears for over 2 months when he issued the termination notice to her. No payments were made since the notice was served on the tenant and the rent owing has continued to accumulate.
22. As the notice meets the timeframe requirements set out in section 19 of the Act, it is a valid notice.

Decision


23. The termination notice issued to the tenant on 13 February 2020 is a valid notice.
24. The landlord's claim for an order for vacant possession of the rented premises succeeds.
25. 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.

Summary of Decision

26. The landlord is entitled to the following:
 - A payment of rent in the amount of \$7409.84,
 - A payment of a daily rate of rent in the amount of \$26.23, beginning 09 September 2020 and continuing to the date the landlord obtains possession of the rental unit,
 - 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.

11 September 2020

Date



John R. Cook
Residential Tenancies Tribunal