

Residential Tenancies Tribunal

Decision 21-0014-01

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:16 pm on 31 May 2021 via teleconference.
2. The applicant, [REDACTED], was represented at the hearing by [REDACTED], hereinafter referred to as “the landlord”. The respondent, [REDACTED], hereinafter referred to as “the tenant”, did not participate.

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 is section 20 of the *Residential Tenancies Act, 2018*.

Preliminary Matters

6. The tenant was not present or represented at the hearing and there was no telephone number available where he could be reached. 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) a respondent 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 landlord submitted an affidavit with her application stating that the tenant had been personally served with notice of the hearing 14 May 2021 and he has had 16

days to provide a response. As the tenant was properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in his absence.

Issue 1: Vacant Possession of Rented Premises

Relevant Submissions

7. The landlord stated that she had entered into a 1-year, fixed-term lease with the tenant on 13 May 2015 and a copy of the executed lease was submitted with her application (█ #1). The current rent is set at \$775.00 per month and the landlord testified that the tenant had paid a security deposit of \$490.00.
8. The landlord pointed to section 1 in Schedule “A” in the lease in which it is stated that the tenant is required to obtain tenant insurance and provide proof of insurance to the landlord before moving into the unit, and to provide updates as that insurance policy is renewed.
9. The landlord submitted 4 letters she had sent to the tenant, between 25 January 2018 and 25 January 2021, requiring that he provide her with documentation confirming proof of tenant insurance. She testified that the tenant did not respond to those requests and she has not received any proof from the tenant that he has tenant insurance for his unit.
10. Because of the tenant’s failure to provide proof of tenant insurance, she issued him a termination notice on 25 January 2021 and a copy of that notice was submitted with her application. That notice was issued under section 20 of the *Residential Tenancies Act, 2018* (notice where material term of agreement contravened) and it had an effective termination date of 28 February 2021.
11. The landlord stated that the tenant has not vacated the rental unit as required and she is seeking an order for vacant possession.

Analysis

12. Section 20 of the *Residential Tenancies Act, 2018* states:

Notice where material term of agreement contravened

20. (2) *Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes a material term of a rental agreement, the landlord may give the tenant written notice of the contravention, and if the tenant fails to remedy the contravention within a reasonable time after the notice has been served, the landlord may give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises.*

(3) Where the tenant gives a landlord notice under subsection (1) or the landlord gives a tenant notice under subsection (2) that a rental agreement is terminated, the notice shall be given

(a) not less than 7 days before the end of a rental period where the residential premises is rented from week to week; and

(b) not less than one month before the end of a rental period 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.


13. The lease submitted by the landlord clearly shows that the tenant is required to provide to her proof that he has acquired tenant insurance and I accept her claim that, despite her repeated requests, the tenant has not complied with that provision of the lease or with her requests that he come into compliance.
14. As the tenant had breached his lease, the landlord was in a position, on 25 January 2021, to terminate this tenancy under section 20 of the *Act*. As the notice issued on that day meets all the requirements under this section of the *Act*, it is a valid notice.

Decision

15. The landlord's claim for an order for vacant possession of the rented premises succeeds.
16. 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.

01 June 2021

Date


John R. Cook
Residential Tenancies Tribunal