

Residential Tenancies Tribunal

Decision 21-0208-05

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:15 pm on 22 June 2021 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 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*.

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) 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 respondents’ absence so long as they has been properly served. The landlord submitted affidavits with his application stating that he had served the tenants with notice of the hearing, by text-message and e-mail, on 19 May 2021 and copies of those messages

were submitted with his application. The tenants have had 31 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 their absence.

Issue 1: Vacant Possession of Rented Premises

Relevant Submissions

7. The landlord stated that he had entered into a monthly rental agreement with the tenants on 06 November 2020. The agreed rent was set at \$700.00 per month and the landlord testified that the tenants had paid a security deposit of \$350.00.
8. The landlord complained that the tenants were not paying their rent on time during their tenancy and he submitted a copy of his rent records with his application (█ #1). According to these records, the tenants only paid \$350.00 in rent for April 2021 and the landlord testified that he has received no payments for May or June 2020.
9. Because of their failure to pay the required rent, the landlord issued the tenants a termination notice on 08 April 2021 and a copy of that notice was submitted with his application (█ #2). That notice was issued under section 19 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 19 April 2021.
10. The landlord stated that the tenants have not paid off their arrears and they have not vacated as required. He is seeking an order for vacant possession of the rented premises.

Analysis

11. 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.


12. I accept the landlord's claim that the tenants have not paid their rent as required. According to his records, on 08 April 2021, when the termination notice was issued, the tenants were in arrears in the amount of \$700.00. No payments were made prior to the termination date of 19 April 2021. Although \$350.00 was paid on 30 April 2021, the tenants have remained in arrears since the notice was issued up to this hearing date.
13. As the termination notice meets all the requirements set out in section 19 of the *Act*, it is a valid notice.

Decision

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

22 June 2021

Date



John R. Cook
Residential Tenancies Tribunal