

Residential Tenancies Tribunal

Decision 19-0025-02

Michael Greene
Adjudicator

Introduction

1. The hearing was called at 11:30 am on 28 October 2019 at Residential Tenancies Hearing Room, 84 Mt. Bernard Avenue, Lower Level, The Sir Richard Squires Building, Corner Brook, Newfoundland and Labrador via Bell Teleconferencing System.
2. The applicant, [REDACTED], hereafter referred to as the landlord, participated in the hearing. The landlord was represented by [REDACTED] and [REDACTED] - **Affirmed**.
3. The respondent, [REDACTED] - **Affirmed**, hereafter referred to as the tenant, participated in the hearing.
4. The details of the claim were presented as a written fixed term rental agreement which expired on 31 May 2019, rent set at \$228.00 per month and due on the 1st of each month. There was no security deposit collected on the tenancy. The landlord issued a termination notice dated 20 June 2019 for the intended termination date of 30 September 2019 under Section 18 of the *Residential Tenancies Act, 2018*.
5. In a proceeding under the *Residential Tenancies Act, 2018*, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

Preliminary Matters

6. The affidavit submitted by the landlord shows that the tenant was served with the notice of this hearing on the **09 October 2019** by serving the Application for Dispute Resolution documents to the tenant personally at the rental address.

Issues before the Tribunal

7. The landlord is seeking the following:
 - a) Vacant possession of the rented premises
 - b) Hearing expenses

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in the *Residential Tenancies Act, 2018 (the Act)*, Section 47.
9. 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, Hearing Expense, Interest, Late Payment and NSF*.

Issue 1: Vacant Possession of the Rented Premises

Landlord Position

10. The landlord is seeking to recover possession of the rented premises located at [REDACTED].
11. The landlord testified that they are looking to have their property returned as per the *Residential Tenancies Act, 2018*.
12. The landlord testified that a notice to terminate was issued under Section 18 of *the Act* (**Exhibit L # 2**) to terminate the tenancy on 30 September 2019. The landlord testified that the notice to terminate was served personally by the landlord to the tenant on 20 June 2019. The landlord indicated that as of the hearing date (24 October 2019), the tenant remained in the unit. The landlord further testified that to the best of his knowledge, there is 1 adult living in the unit.

Tenant Position

13. The tenant testified that she received the notice to terminate the tenancy (**Exhibit L # 2**) and has stated that she has nowhere to go. The tenant testified that she is seeking an extension to the notice until such time as Newfoundland Labrador Housing (NLH) can adequately place her in housing.

Analysis

14. The validity of the termination notice is determined by its compliance with the notice requirements identified in sections 18 (9) and 34 as well as the service requirements identified in section 35.
15. The rental agreement in this particular case has converted to a month to month tenancy with the covenants of the original agreement remaining in place with the exception of the notice requirements which revert to section 18(2)(b) from section 18(2) (c).
16. Section 18 (2)(b) requires that when a premises is rented for month to month, the landlord may terminate the tenancy and the tenant is required to vacate the residential premises on a date not less than 3 months before the end of the rental period. On examination of the termination notice issued and submitted into evidence (**Exhibit L # 1**), I find the notice was served on 20 June 2019 with a termination date of 30 September 2019. I find that as the date of termination identified on the notice is at least 3 months before the end of the rental period and the date the tenant is required to move out, the termination notice is in full compliance with the requirements of section 18 (2) (b). Sections 18 (9) and 34 identify the technical requirements of the termination notice as identified below. On examination of the termination notice, I find it all these criteria have been met.

17. As identified above, the landlord testified that the termination notice was served personally which is a permitted method of service identified under section 35.

section 18 (9)

In addition to the requirements under Section 34, a notice under this section shall

- (a) be signed by the landlord;*
- (b) be given not later than the first day of a rental period*
- (c) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and*
- (d) be served in accordance with section 35.*

section 34

A notice under this Act shall

- (a) be in writing in the form prescribed by the minister;*
- (b) contain the name and address of the recipient;*
- (c) identify the residential premises for which the notice is given; and*
- (d) state the section of this Act under which the notice is given.*

18. According to the reasons identified above, I find that the termination notice issued by the landlord to be proper and valid. Therefore, the landlord is entitled to an order for vacant possession of the property along with an order for any and all costs associated with the Sheriff to enforce such a Possession Order should the Sheriff be engaged to execute the Possession Order.

Decision

19. 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.

Issue 2: Hearing Expenses

Landlord Position

20. The landlord paid a fee in the amount of \$20.00 as an application filing fee and presented a receipt from Service NL [REDACTED] (**Exhibit L # 3**). The landlord is seeking this cost.

Analysis

21. I have reviewed the testimony and evidence of the landlord in this matter. The expenses incurred by the landlord are considered a reasonable expense and are provided for with in Policy 12-1 *Recovery of Fees: Filing, Costs, Hearing Expense, Interest, Late Payment and NSF*. As such, I find the tenant is responsible to cover these reasonable expenses.

Decision

22. The tenant shall pay the reasonable expenses of the landlord in the amount of \$20.00.


Summary of Decision

23. The landlord is entitled to the following:

- a) **Hearing Expenses.....\$20.00**
- b) **Vacant Possession of the Rented Premises**
- c) **An order for any and all costs associated with the Sheriff to enforce such a Possession Order should the Sheriff be engaged to execute the Possession Order.**

08 November 2019

Date



Michael Greene
Residential Tenancies Tribunal