

Residential Tenancies Tribunal

Application 2025-0715-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 27-August-2025 at 2:00 pm.
2. The applicant, [REDACTED] hereinafter referred to as the landlord, attended via teleconference.
3. The respondent, [REDACTED], hereinafter referred to as the tenant, did not attend.

Preliminary Matters

4. The tenant was not present or represented at the hearing. I reached her by telephone before the hearing began and alerted her that the hearing was happening. She advised that she had not known about the hearing. I asked if there was a reason she might not have received the landlord's email notice and she said she lost her phone sometime ago. She refused to join the teleconference, saying she had childcare responsibilities. I advised her that an order could be issued in her absence.
5. 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 respondent fails to attend the hearing, Rule 29.11(1) states that the hearing may proceed in the respondent's absence so long as they have been properly served. The landlords submitted an affidavit (LL#1) with their application stating that they had served the tenant with notice of the hearing electronically on 15-August-2025 at 1:52 pm. Proof of service was also provided. 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 their absence.

Issues before the Tribunal

6. Should the landlord's claim for unpaid rent and late fees succeed?
7. Should the landlord's claim for an order of vacant possession succeed?

8. What is the proper disposition of the security deposit?

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018* (the *Act*).
10. Also considered and referred to in this decision are sections 19(1), 19(4), and 34 of the *Act*, as follows:

Notice where failure to pay rent

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

(a) where the residential premises is rented from week to week and the amount of rent payable by a tenant is overdue for 3 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 3 days after the notice is served on the tenant; and

(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.

...

(4) In addition to the requirements under section 34, a notice under this section shall

(a) be signed by the landlord;

(b) state the date on which the rental agreement terminates and the tenant is required to vacate the residential premises; and

(c) be served in accordance with section 35.

Requirements for notices

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.

Issue 1: Unpaid Rent and Late Fees

11. The landlord claims \$3139.00 in unpaid rent. A rental ledger (LL#2) was provided in support of this. The landlord testified that the ledger is a complete account of all payments that have been paid towards the tenant's rent to date.
12. I accept the landlord's uncontradicted testimony. However, the rent total provided by the landlord includes the full month's rent for the month of August 2025. This tribunal does not deal in future rent and cannot issue an order for rent for days which have not yet come to pass. A daily rate must be calculated. The correct formula for determining a daily rate is the monthly rent multiplied by the 12 months and dividing by the 365 days of the year. In this case, the daily rate is $\$1400/\text{month} \times (12 \text{ months}/365 \text{ days}) \approx \$46.03/\text{day}$.
13. Therefore, the rent owing for the month of August is \$1242.74 at the time of the hearing, and the total rent owing is \$2981.74.
14. S. 15 (1) States that where a tenant does not pay rent for a rental period within the time stated in the rental agreement, the landlord may charge the tenant a late payment fee in an amount set by the minister. The minister has set the rate for late payment fees at \$5.00 for the first day and \$2.00 for each day thereafter, to a maximum of \$75.00. As rent has been overdue for more than 35 days, the maximum late fee of \$75.00 applies.
15. The landlord's claim for unpaid rent succeeds in the amount of \$2981.74.
16. The landlord's claim for late fees succeeds in the amount of \$75.00.
17. This does not affect the requirement that the tenant continues to pay rent on a go-forward basis for any days they remain in the premises past the hearing date.

Issue 2: Vacant Possession

18. To succeed in a claim for an order of vacant possession, a landlord must have first issued a valid termination notice. To be valid, a termination notice must comply with all relevant sections of the *Act*. The landlord provided a copy of a termination notice (LL#3) which they say they provided to the tenant.
19. The termination notice is written in the form prescribed by the minister. It contains the name and address of the recipient. It identifies the residential premises for which it is given. It states that it was issued under s. 19 of the *Act*. It therefore complies with s. 34.
20. The notice was signed by the landlord. It states the date on which the rental agreement was to terminate. The landlord testified that it was served on the tenant personally, in accordance with s. 35(2)(a) of the *Act*. It therefore complies with s. 19(4).
21. The notice is dated 22-July-2025 and the landlords testified it was served on the same day, at which point the rent was overdue by more than five days. It provides a move out

date of 2-August-2025, which is not less than 10 days after it was served. It therefore complies with s. 19(1)(b) of the *Act*.

22. LL#3 complies with all relevant sections of the *Act* and is therefore valid.

Issue 3: Security Deposit

23. The landlord is owed moneys and may therefore apply the security deposit against the sum owed. In this case the security deposit was \$1000.00 and was paid on 7-August-2020.

24. S. 14(7) of the *Act* states that landlord shall credit interest to the tenant on the full amount or value of the security deposit, at the rate prescribed by the regulations, during the time the security deposit is held by the landlord. The regulations prescribed an interest rate of 0% for the years 2020-2023 and a simple cumulative interest rate of 1% annual for the years 2024 and 2025. Calculated to the date of the hearing, the total interest is \$16.58.

Decision

25. The landlord’s claim for unpaid rent succeeds in the amount of \$3139.00.

26. The landlord’s claim for late fees succeeds in the amount of \$75.00.

27. The landlord may apply the security deposit and interest, valued at \$1016.58, against the sum owed.

28. The valid termination notice gave a move out date of 2-August-2025. The tenancy agreement ended on that date. Insofar as the tenants still occupy the premise, they are doing so illegally. The landlords’ application for an order of vacant possession succeeds.

29. The tenant shall continue to pay rent at the daily rate of \$46.03/day.

30. The landlord was successful in their application and therefore may seek to be reimbursed for their reasonable hearing expenses. They seek only the \$20.00 application fee, which is granted.

Summary of Decision

31. The tenant shall vacate the premises immediately.

32. The tenant shall pay to the landlord any costs charged to the landlord, by the Office of the High Sherriff, should the landlord be required to have the Sheriff enforce the attached Order of Possession.

33. The tenant shall continue to pay rent at the daily rate of \$46.03/day.

34. The tenant shall pay to the landlord \$2060.16 as follows:

Unpaid Rent.....\$2981.74

Late Fees.....\$75.00
Hearing Expenses.....\$20.00
Less Security Deposit.....-(\$1016.58)

Total.....\$2060.16

3-September-2025
Date



Seren Cahill
Residential Tenancies Office