

Residential Tenancies Tribunal

Application 2026-0453-NL

Seren Cahill
Adjudicator

Introduction

1. Hearing was held on 30-June-2026 at 9:11 am.
2. The applicant of the initial claim, [REDACTED], hereinafter referred to as the landlord, was represented at the hearing by director [REDACTED], who attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as the tenant, also attended by teleconference.
4. The landlord called the witnesses [REDACTED] and [REDACTED]. The tenant called the witness [REDACTED]. All witnesses attended by teleconference.

Preliminary Issues

5. The tenant suggested he was not served but indicated he would rather proceed than seek a postponement.
6. This was a verbal month-to-month lease agreement, with rent set at \$900.00/month due on the 1st of each month.

Issues before the Tribunal

7. Can the landlord's documentary evidence be considered?
8. Should the landlord's claim for an order of vacant possession succeed?

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 22 and 34 of the *Act*, as follows:

Notice where tenant's obligation not met

22. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes statutory condition 2 set out in subsection 10(1), the landlord may give the tenant notice requiring the tenant to comply with the condition.

(2) Where a tenant contravenes statutory condition 2 set out in subsection 10(1) within 3 days after the notice under subsection (1) has been served or within a reasonable time, the landlord may give the tenant notice that the rental agreement is terminated and the tenant is required to vacate the residential premises on a specified date not less than 5 days after the notice has been served.

(3) 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: Admission of Evidence

11. On the morning of the hearing, the landlord submitted by email a number of photos they sought to have admitted as evidence in the hearing. I decline to admit these photos for two reasons.
12. First, as stated in Part 8 of the Applicant/Respondent documents that were provided to the landlord as well as in the Residential Tenancies Program Policy and Procedure Guide, Policy 11-002, a party that seeks to adduce documentary or recorded exhibits not included in the application for dispute resolution must submit them no less than 3 days before the scheduled hearing date.
13. Second, as required both by the above Policy and the principle of procedural fairness, no documentary evidence can be admitted that the other party is not served with, as this prevents them from being able to examine and respond to the evidence during the teleconference. When initially asked how the evidence was served on the tenant, the landlord stated they did not know. When pressed, they suggested it was served

alongside the notice of hearing via registered mail. The landlord provided an affidavit stating they had served the tenant via registered mail on 29-May-2026 at the address of the rental premises. A tracking number, [REDACTED] was provided. Checking the tracking number revealed that the package was successfully delivered. Checking the signature shows it has been signed with an "[REDACTED]," and the signatory name is listed as "[REDACTED]." The landlord was unable to provide an explanation of why he was listed as the signatory.

14. The tenant has maintained since he first called our office and was notified that he had an upcoming hearing that he was never served with the notice of hearing. He says the landlord has been intercepting his mail. This provides a plausible explanation of why a package delivered to the tenant's address would have the landlord's name as the signatory. I accept on a balance of probabilities that the tenant was never served the supporting evidence the landlord seeks to admit.

Decision

15. The landlord's photographic evidence is inadmissible.

Issue 2: Vacant Possession

16. To receive an order for vacant possession, a landlord must provide a valid termination notice. To be valid, a termination notice must comply with all relevant sections of the Act. They submitted L#1.
17. L#1 is written in the form prescribed by the minister. It contains the name and address of the recipient. It identifies the residential premises which it regards. It identifies itself as being given under s. 22 of the Act. It therefore complies with s. 34.
18. L#1 is signed by a representative of the landlord. It states the date on which the tenancy is to terminate. The landlord says it was served personally on the tenant on 7-May-2026 in accordance with s. 35(2)(a) of the Act. The tenant denies ever being served L#1.
19. Considering the totality of the evidence, I find the tenant's account of not being served the termination to be more likely to be true than the landlord's claim of having served it. My finding in paragraph 14, above, impugns the landlord's credibility. No external evidence, including the testimony of the other witnesses, bolsters his claim that he served the tenant this notice.
20. L#1 was not served in accordance with s. 35 of the Act which makes it in contravention of s. 22(3)(c), and therefore is invalid.

Decision

21. The landlord's claim for an order of vacant possession fails.

Summary of Decision

22. The landlord's application is dismissed.

6-July-2026
Date



Seren Cahill
Residential Tenancies Office