

Residential Tenancies Tribunal

Application 2024-0609-NL

Oksana Tkachuk
Adjudicator

Introduction

1. Hearing was called at 9:15 a.m. on 25-September-2024.
2. The applicant, [REDACTED] represented by [REDACTED], hereinafter referred to as "the landlord", attended the hearing.
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 and I was unable to reach her by telephone at the start of the hearing. 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 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 she has been properly served. The landlord submitted a sworn statement with their application stating that they had served the tenant with the notice of hearing personally on 14-September-2024 (LL#1). 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 her absence.
5. There is a verbal month to month rental agreement which commenced in June-2024, when the landlord purchased the property, however the tenant was residing in the unit since 2020. The rental unit is an apartment in a multiapartment building. Rent is \$900.00 per month, due on the first of each month. A security deposit was never paid.
6. The landlord's representative amended the application to exclude *rent to be paid* \$900.00, as the rent has been paid by the tenant.

Issues before the Tribunal

7. The landlord is seeking:
 - An order for vacant possession of the rented premises

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 24; Notice where tenant contravenes peaceful enjoyment and reasonable privacy and Section 34: requirements for notices and Section 7-5 of the *Residential Tenancy Policy Manual*: Interference with peaceful enjoyment and reasonable privacy.

Issue # 1: Vacant Possession of the Rented Premises

Relevant Submissions

9. The landlord submitted a copy of a termination notice that was given on a *Landlord's Notice to Terminate Early – Cause* form (LL#2). The notice was issued to the tenant on 24-June-2024 under Section 24; *Notice where tenant contravenes peaceful enjoyment and reasonable privacy* to vacate on 30-June-2024.

Landlord's Position

10. The landlord's representative testified that the tenant has interfered with the peaceful enjoyment and reasonable privacy of the other tenants in the unit. The landlord stated that they received multiple complaints from other tenants that the tenant physically threatened other tenants, created multiple alterations in laundry room, as well as reports involving the police. Additionally, the tenant was engaged in the use of alcohol and marijuana and was smoking in the rental unit despite it being a non-smoking building. The landlord's representative submitted two sworn witness affidavits to support the claim (LL#3,4). The landlord is seeking an Order of vacant possession.

Analysis

11. Section 34 of the *Residential tenancies Act* states:

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.

12. The termination notice was given on 24-June under Section 24; *Notice where tenant contravenes peaceful enjoyment and reasonable privacy* to vacate on 30-June-2024. The termination date was given not less than 5 days after the notice was served and meets the requirements as set out in Section 34 of the Act as stated above. I find that the termination notice is a valid notice from a timeline perspective and technical requirements but has to be further analyzed for validity (see below).
13. The landlord submitted a sworn statement (LL#3) from the superintendent stating that there have been several incidents for over the past several months, specifically that the tenant is dangerous and her behaviour has caused many tenants to be afraid, where the tenant threatened to burn down the apartments, has spit in her face and another tenant, has threatened to assault her physically, has repeatedly smoking cigarettes and marijuana, consuming alcohol in laundry room, has banged to her door yelling profanities, has thrown chairs and a bench at her.
14. The landlord submitted another sworn statement (LL#4) from another tenant stating that there have been several incidents whereby the tenant was smoking marijuana and cigarettes in the laundry room, which is under tenants kitchen, creating a fire hazard, banging on other tenants doors, yelling, fighting, insulting visitors who don't live in the building, the tenant frequently has men over, and many of these visits result in loud arguments and screaming matches. Additionally, the statement indicates that other tenant is unable to have her family and friends visit, as the tenant frequently interrupts, as the tenant is often under the influence of drugs, making other tenants extremely uncomfortable.
15. The tenant was not present to dispute the claims. According to the Section 7-5 of the *Residential Tenancies Policy Manual*, unreasonable disturbances interfering with peaceful enjoyment and reasonable privacy may include but is not limited to the following: excessive noise, aggressive or obnoxious behaviour, threats and harassment. I accept the landlord's testimony that he has addressed the issues, and I accept the witness affidavits, which in accordance with Section 7-5 of the *Residential Tenancies Policy Manual*, demonstrate that unreasonable disturbances interfering with peaceful enjoyment and reasonable privacy by the tenant were ongoing issue. For those reasons, I find that the termination notice given on 24-June-2024 is a valid notice.
16. I find that the tenant should have vacated the unit on 30-June-2024.

Decision

17. The tenant shall vacate the premises immediately.
18. 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.
19. The landlord will be awarded an Order of Possession.

04 October 2024

Date



Oksana Tkachuk, Adjudicator
Residential Tenancies Office