

## Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0279-05

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 9:40 am on 20 August 2021 via teleconference.
2. The applicant, [REDACTED] was represented at the hearing by [REDACTED] [REDACTED], hereinafter referred to as "the landlord". The respondent, [REDACTED] [REDACTED], hereinafter referred to as "the tenant", 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 are sections 10 and 24 of the *Residential Tenancies Act, 2018* and rule 29 of the Rules of the Supreme Court, 1986.

### Preliminary Matters

6. The tenant was not present or represented at the hearing and I was unable to reach him 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 respondent's absence so long as he has

been properly served. The landlord submitted an affidavit with his application stating that he had personally served the tenant with notice of the hearing on 15 May 2021 and he has had 85 days to provide a response. 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 his absence.

## **Issue 1: Vacant Possession of Rented Premises**

### **Relevant Submissions**

7. The landlord stated that he had entered into a month-to-month rental agreement with the tenant on 26 April 2021. The agreed rent was set at \$700.00 per month and the landlord testified that the tenant had paid a security deposit of \$500.00.
8. The rental unit is located on the middle floor of a 3 bedroom complex, with units █ and █ directly above and below the tenant.
9. The landlord stated that he has received reports from the Royal Newfoundland Constabulary (RNC) that they have had to visit the unit on at least 4 occasions regarding complaints that they had been receiving about domestic altercations taking place in the unit, and the landlord testified that on 1 occasion they had to break down the door as the tenant was unresponsive. He stated that that whole door, an industrial steel door, has had to be replaced as a result.
10. The landlord also stated that the tenant in unit █ had also been complaining the behaviour of the tenant and she had reported to him that the tenant has been verbally aggressive and that she is uncomfortable living at the complex and she is afraid of the tenant.
11. The landlord also claimed that he has had a couple of run-ins with the tenant himself.
12. On one occasion, he stated that he was at the unit with the daughter of the tenant of unit █ to retrieve a cat. He testified that he let the daughter into the common area of the complex when he was confronted by the tenant. He testified that the tenant was confrontational and verbal abusive toward him and that he would not let the daughter out of the complex.
13. On the second occasion, the landlord was again in the common area, this time carrying some painting. He testified that the tenant again confronted him and that he was aggressive and verbally abusive and he physically positioned himself between the landlord and his painting supplies such that he was unable to carry out any work. The landlord also stated that the tenant had threatened him, that he had said "we are going to have a problem before you leave" and that he was "going to kick the shit" out of him.

14. Because of these complaints from the RNC and from the tenant in [REDACTED], the landlord issued the tenant a termination notice on 09 June 2021 and a copy of that notice was submitted with his application. That notice was issued under section 24 of the *Residential Tenancies Act, 2018* and it had an effective termination date of 15 June 2021.
15. The landlord stated that the tenant has not vacated as required and he is seeking and order for vacant possession of the rented premises.

## **Analysis**

16. Statutory condition 7.(a), set out in section 10.(1) of the *Residential Tenancies Act, 2018* states:

### ***Statutory conditions***

***10. (1) Notwithstanding an agreement, declaration, waiver or statement to the contrary, where the relationship of landlord and tenant exists, there shall be considered to be an agreement between the landlord and tenant that the following statutory conditions governing the residential premises apply:***

...

#### **7. Peaceful Enjoyment and Reasonable Privacy -**

***(a) The tenant shall not unreasonably interfere with the rights and reasonable privacy of a landlord or other tenants in the residential premises, a common area or the property of which they form a part.***

and according to section 24 of this Act:

#### ***Notice where tenant contravenes peaceful enjoyment and reasonable privacy***

***24. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes statutory condition 7(a) set out in subsection 10(1), 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.***

***(2) 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.*

17. I accept the testimony of the landlord in this matter and I accept his claim that the tenant had been acting in an antisocial manner, that he was verbally abusive and that he had threatened him when he visited the property on those 2 occasions. That sort of behaviour is consistent with the reports he testified he had received from the RNC and the tenant in [REDACTED]
18. I find that that sort of behaviour is unreasonable and that it infringed on the landlord's right to carry out maintenance at the complex and with his right to deal with other tenants at the same complex. Accordingly, I find that the landlord was in a position, on 09 June 2021, to issue the tenant a termination notice under this section of the Act.
19. As the notice meets all the requirement set out in this section of the Act, it is a valid notice.

### **Decision**

20. The landlord's claim for an order for vacant possession of the rented premises succeeds.
21. 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.

### **Issue 2: Hearing Expenses**

22. The landlord paid a fee of \$20.00 to file this application. As his claim has been successful, he is authorized to retain that amount from the security deposit.

31 August 2021

\_\_\_\_\_  
Date

