

Residential Tenancies Tribunal

Application: 2022 No. 651NL

Decision 22-0651-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 2:01 PM on 24 August 2022 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing. The respondents, [REDACTED] and [REDACTED], hereinafter referred to as “the tenants”, were not in attendance.

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*.

Preliminary Matters

6. The tenants were not present or represented at the hearing and there was no telephone number available where they could be reached. 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 he has been properly served. With her

application, the landlord submitted an affidavit stating that she had personally served the tenants with her application 05 August 2022. As the tenants were properly served, and as any further delay in these proceedings would unfairly disadvantage the landlord, I proceeded with the hearing in their absence.

Issue 1: Vacant Possession of Rented Premises

Relevant Submissions

7. The landlord stated that she had entered into a monthly rental agreement with the tenants on 23 May 2022, and a copy of that executed agreement was submitted with her application. The agreed rent is set at \$700.00 per month, and it is acknowledged in this agreement that the tenants had paid a security deposit of \$375.00.
8. The rental unit is located in a complex with 3 other adjoining apartments. The landlord testified that after the tenants moved in, she started to receive complaints from the residents in 2 of these other apartments.
9. She stated that these residents had reported to her that the tenants had been begging and harassing them for food, money, furniture, Wi-Fi passwords, etc. They also complained that the tenants are noisy and they can hear loud banging coming from their unit which keeps these residents awake at night. Additionally, louds fights and disagreements can be heard coming from their unit and on several occasions, the police had to be called.
10. In support of those claims, the landlord submitted 2 sworn affidavits from these residents (Exhibits 7 & 8) in which they outline their experience at the complex since the tenants have moved in. One resident, ■■■, writes that tenants were very disruptive and that the police were called on several occasions. She also reports that she had to resort to purchasing security cameras because she felt so unsafe living at the complex. In the other affidavit, ■■■ writes that she too had to purchase security cameras because of the behaviour of these tenants. ■■■ writes that there is continuous screaming and banging on doors at the complex, and she also recounted one incident where she was chased by the tenants, resulting in a call to the police.
11. The landlord also complained that the tenants have been verbally abusive towards her and that on one occasion, at the end of June 2022, when she was carrying out an inspection at the rental unit, the tenants hurled profane and racist insults at her. This was corroborated in ■■■'s affidavit, and ■■■ also complained that the tenants have verbally abused her as well.
12. Because of these issues, the landlord testified that, on 25 July 2022, she personally served them with a termination notice, and a copy of that notice was submitted with her application (Exhibit 1). That notice was issued under section

24 of the *Residential Tenancies Act, 2018*, and it had an effective termination date of 31 July 2022.

13. The landlord stated that the tenants have not moved out, as required, and she is seeking an order for vacant possession of the rented premises.

Analysis

14. Statutory conditions 7, set out in section 10 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:

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.

15. I found the landlord to be credible and believable and I accept her claim that the tenants have been verbally abusive towards her and have used racial slurs in reference to her. That sort of behaviour is clearly anti-social and unreasonable and is not something anyone should be subjected to.
16. I also find, based on the submitted affidavits, that the other residents at the complex have been subjected to loud noises and fighting coming from the tenants' unit, that they have been harassed by these tenants, and that the police have had to visit the complex on several occasions. In both affidavits, these residents state that their enjoyment of their apartments has been severely compromised, that they are fearful of the tenants, and that they can no longer have family or friends visit them at the complex.
17. Based on the landlord's testimony and the affidavits from these other residents, I find that the landlord was in a position, in 25 July 2022, to issue the tenants a termination under this section of the *Residential Tenancies Act, 2018*.
18. As the notice meets all the requirements set out here, it is a valid notice.

Decision

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

30 August 2022

Date


John R. Cook
Residential Tenancies Tribunal