

Residential Tenancies Tribunal

Application: 2022 No. 969NL

Decision 22-0969-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 9:15 AM on 15 December 2022 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as “the landlord”, participated in the hearing. The respondent, [REDACTED], hereinafter referred to as “the tenant”, was also 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*.

Issue 1: Vacant Possession of Rented Premises

Relevant Submissions

The Landlord's Position

6. The landlord stated that he had entered into a 1-year, fixed-term rental agreement with the tenant on 13 June 2022, and a copy of that executed agreement was submitted with his application. The agreed rent was set at \$585.00 per month and no security deposit was collected.

7. The rental unit is located in a complex with 20 apartments located on the top 2 floors. The second floor contains administrative offices, and on the first floor is a kitchen and dining room, which is used to feed vulnerable populations 3 times a week. In the basement, there is a health clinic and a parking garage.
8. The landlord stated that since the tenant moved in, she has been involved in numerous violent outbursts with other tenants, with the staff at the complex, and with various contractors that the landlord had hired to carry out work there. As evidence, the landlord submitted with his application 11 incident reports drafted by his support workers.
9. The landlord stated that he had sent contractors to the tenant's apartment to repair the air-conditioner in that unit, and he claimed that the tenant was confrontational and had threatened them. He testified that these contractors did not want to revisit the tenant's unit because of her behaviour. The tenant also confronted a worker from a pest control company who was setting traps at the complex. He stated that the tenant had challenged this worker and demanded to know why he was at the complex. This worker felt intimidated by the tenant and he subsequently left the complex. The same thing happened with a worker who had been sent to repair the elevator. That worker had to be escorted from the complex by one of the landlord's support workers.
10. The landlord complained that the tenant is vulgar, and curses and swears at the other tenants and the staff who work at the complex. He claimed that the other tenants at the complex, as well as his staff, are scared of the tenant and he argued that it is not safe living or working there. He also pointed out that on Tuesdays, Wednesdays and Thursdays, several hundred people visit the complex to take advantage of the meals he provides, and he argued that it is not appropriate having someone there acting the way the tenant does.
11. He also reported that on 18 October 2022, he left his office, entered the stairwell, where the tenant happened to be, and when she saw the landlord she threw her coffee at him, which splashed onto his arm and leg. On 26 October 2022, the landlord also reported that the tenant had thrown a can of soda at one of the support workers in the complex, and, luckily, she was not hit.
12. The landlord stated that he tries to avoid the tenant as much as he can, as every time he encounters her he is met with cursing and swearing. On 29 October 2022, while he was in the lobby, the tenant walked past him, and while looking in his direction, repeatedly uttered "f*** you, f*** you". On 27 September 2022, the tenant came up to the landlord, and one of his maintenance workers, and said "fix my f***ing AC, fix my f***ing AC" and then she kicked a step ladder in his direction. No one was hurt.
13. Because of these issues with the tenant, on 21 November 2022 the landlord issued her a termination notice, a copy of which 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 27 November

2022. The tenant has not complied with that notice, and the landlord is seeking an order for vacant possession of the rented premises.

The Tenant's Position

14. At the hearing, the tenant made several complaints about her time residing at the complex. She stated that she was assaulted by one of the other residents at the complex, W, and she claimed no one informed her that, 6 days later, the police had paid a visit to the complex to investigate. She also complained that her rental unit is the only one at the complex in which the air-conditioning does not work and she pointed out that her windows do not open.
15. The tenant also claimed that staff at the complex had thrown away a fan she had been trying to repair, without notifying her. She stated that she had kept it under the stairwell, where it was not taking a "blocking position", and she was trying to repair it so she could get some relief from the heat in her room. She also claimed that some of her plants were stolen.
16. Regarding the incident on 18 October 2022, the tenant denied that she had thrown her coffee at the landlord. Rather, she claimed that she was merely startled when the landlord entered the stairwell, and this caused her to accidentally spill her coffee on him.
17. With respect to the person who came to repair her air-conditioner, the tenant stated that it was "news to her" that any complaints had been made about her behaviour. The tenant also denied that she had been involved in any altercation with the worker from the pest control company. She testified that she merely had a conversation with him about how long he had been working at the complex, and she pointed out that as the complex was only 2 years old, it was odd that this worker claimed he had been working there for 3 years.
18. Regarding the worker who came to fix the elevator, the tenant stated that she encountered him in the stairwell and she claimed that she did not know he was there to fix the elevator as he was not wearing a uniform. She testified that she asked him "Who the fuck are you?" and she also pointed out that the person who assaulted her, W, was also in the stairwell at the time. She claimed that both of them stood in the doorway to the stairwell and took up a "blocking position", at which point she told them to "get the fuck out of my way", which they did. When she later saw this worker in the lobby, he refused to provide her with any information about which company he worked with.
19. Regarding the incident with the can of soda, the tenant stated that she had entered the lobby on that date where she found some plastic bags, and began sorting through them, as she needed some for her own use. She testified that a volunteer at the complex, K, then came up to her, inches from her face, and took up a "blocking position". At this point, the tenant stated that she said to K, in a raised voice: "Fuck off. Unacceptable." At that point, another worker at the complex, T, confronted the tenant and claimed that it was her behaviour which

was unacceptable, at which point they started shouting at each other, and T demanded that the tenant put on a mask. The tenant stated that when she went to leave, she did throw a can of soda, but she claimed that she had not thrown it at anyone, but rather down an empty hallway.

Analysis

20. Statutory condition 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.*


21. I found the testimony of the landlord to be credible, especially concerning the incidents in which was a witness. In particular, I accept his claim that the tenant had thrown coffee at him when they had met in the stairwell, and I also accept his claim that on at least 2 occasions, the tenant was verbally abusive and had been cursing and swearing at him.
22. By the tenant's own telling, she was aggressive, confrontational and verbally abusive on a couple of other occasions as well. She described approaching the elevator repairman and had asked "Who the fuck are you?", and then later "Get the fuck out of my way", and then confronted him demanding to know where he worked. She also acknowledged that she was involved in a loud and heated altercation with K and T, in which the tenant was again aggressive, she was cursing, and she admitted that she had thrown a can of soda down a hallway.
23. This sort of behaviour, as described by the landlord and the tenant herself, is anti-social and is highly inappropriate, especially considering that this is a large residential complex, containing many other tenants, and also because, as the landlord pointed out, there are many support staff working there trying to assist vulnerable populations and those in need of meals. I accept the landlord's claim that the tenant's behaviour has been interfering with the quiet and peaceful enjoyment of other residents at the complex, and that it had also interfered with his ability, and the ability of his staff, to carry out his work in safe and peaceful environment.
24. As such, I am of the view that the landlord was in a position, on 21 November 2022, to issue the tenant a termination notice under this section of the Act. As the notice meets all the requirements set out here, it is a valid notice.

Decision

25. The landlord's claim for an order for vacant possession of the rented premises succeeds
26. 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 December 2022

Date


John R. Cook
Residential Tenancies Tribunal