

Residential Tenancies Tribunal

Application 2022-1066-NL

Decision 22-1066-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 11:02 a.m. on 25-January-2023.
2. The applicant, [REDACTED] represented by [REDACTED], hereinafter referred to as "the landlord" attended by teleconference.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant" attended by teleconference.

Preliminary Matters

4. The landlord submitted an affidavit (LL#01) stating that a staff had personally given notification of today's hearing to the tenant on 12-January-2023. The tenant confirmed service.

Issues before the Tribunal

5. The landlord is seeking
 - Vacant Possession of rental premises

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
7. Also relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 10: Statutory Conditions, and Section 24: Notice where tenant contravenes peaceful enjoyment and reasonable privacy.

Issue 1: Vacant Possession of the Rental Premises

Landlord's Position

8. The landlord reviewed the details of the rental agreement held with the tenant. It is a written term agreement commencing 01-June-2021 and ending 01-June-2022; currently they have a monthly agreement. Rent is set at \$750.00 and due in full on the first day of each month. The tenant paid a security deposit of \$375.00 before taking occupancy of the apartment and the landlord is still in possession of the deposit.
9. The landlord explained that although they have spoken with the tenant numerous times there are ongoing issues with his tenancy. She said as an individual, the tenant is a nice person, however he has struggled with addictions issues and this is impacting the other tenants in the apartment building.
10. The landlord said that the police have attended the apartment building a number of times due to issues tied to the tenant's apartment. She has received complaints of fighting, noise, ongoing traffic, drug use, drug deals and needles on the property. She said that the ongoing drug use and company kept by the tenant is not acceptable in a family building.
11. She stated that there are a number of families with children in the building and that she has concerns that people will move out. She submitted into evidence 43 pages of (LL#04) texts, emails and pictures from a number of tenants and staff all relaying the same issues described by the landlord.
12. The landlord submitted a termination notice (LL#03), it is on a "landlord's notice to terminate early form" with interference with peaceful enjoyment and reasonable privacy cited as the reason. The landlord signed and dated the form on 28-November-2022 with a termination date of 04-December-2022. One of her staff made note on the bottom of the form that he gave the notice to the tenant personally at 2:38 p.m. on 28-November-2022.

Tenant's Position

13. The tenant confirmed the details of his rental agreement as stated by the landlord.
14. The tenant offered no dispute to the landlord's claim. He explained that he had gone away for addiction treatment in May and returned in June, he had hoped that the issues had lessened. The tenant apologized for the issues that have been caused and confirmed that this would not be a safe environment for children.
15. The tenant confirms service of the termination notice as stated and explained he is trying to find housing.

Analysis

16. There is no dispute here, the tenant accepts that he is interfering with the rights of the other tenants.
17. 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.

(b) The landlord shall not unreasonably interfere with the tenant's reasonable privacy and peaceful enjoyment of the residential premises, a common area or the property of which they form a part.

According to Residential Tenancies Policy 7-05 Peaceful Enjoyment, interference of peaceful enjoyment is defined as: "an ongoing disturbance or activity, outside of normal everyday living, caused by the landlord or the tenant". Peaceful enjoyment may include, but is not limited to the following: (i) excessive noise; (ii) aggressive or obnoxious behaviour; or (iii) threats and harassment.

18. Section 24 of the *Residential Tenancies Act, 2018*: states

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.

19. The landlord's notice, as described in paragraph 12 and confirmed by the tenant in paragraph 15: meets the requirements of the *Act* and was served in accordance with the *Act*.

Decision

20. The landlord's claim for an Order of Possession succeeds.

Summary of Decision

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

22. The tenant shall vacate the premises immediately.

23. The tenant shall pay to the landlords 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.

January 31, 2023

Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office