

Residential Tenancies Tribunal

Application 2023-0289-NL
2023-0302-NL

Decision 23-0389-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:07 a.m. on 18-May-2023.
2. The applicant, [REDACTED] hereinafter referred to as "the tenant", participated in the hearing. The respondent and counter applicant, [REDACTED] represented by [REDACTED] hereinafter referred to as "the landlord", participated in the hearing. All parties attended via teleconference.

Preliminary Matters

3. The rental unit is a [REDACTED] under one roof. There are [REDACTED] [REDACTED] There is a written month to month rental agreement that commenced on 13-July-2020. Rent is \$565.00 per month and is due on the first of the month. A security deposit of \$282.50 was paid on 13-July-2020 and is in the possession of the landlord.
4. The tenant submitted an affidavit stating that she served the landlord the notice of hearing on 11-May-2023 electronically by sending it via text message to: [REDACTED] [REDACTED] The landlord confirmed receiving it on that day. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. The landlord submitted an affidavit stating that she served the tenant with a copy of the counter claim on 5-May-2023 electronically via email: [REDACTED]
6. A notice of rescheduled hearing was sent to both parties on 4-May-2023.

Issues before the Tribunal

7. The tenant is seeking:
 - Validity of termination notice
 - Hearing expense reimbursed \$20.00

8. The landlord is seeking:
 - Vacant possession of rental premises

Legislation and Policy

9. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
10. 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: Validity of Termination Notice

Issue 2: Vacant Possession of the Rental Premises

Relevant Submissions

11. The tenant and landlord submitted a copy of a termination notice issued to the tenant on a *Landlord's Notice to Terminate Early – Cause* form (TT#1). It was dated for 13-March-2023 under section 24; Notice where tenant contravenes peaceful enjoyment and reasonable privacy to vacate the premises by 31-March-2023.

Landlord's Position

12. The landlord states that there are 4 issues that are ongoing with the tenant. Issue # 1: Continuous loud noises coming from the unit. Issue # 2: Company that the tenant frequently brings into the unit that disrupts the peaceful enjoyment and reasonable privacy of the other tenants in the fourplex. Issue #3. Drugs on the premises and issue #4: rodent problem.
13. Issue # 1: Continuous loud noises coming from the unit. The landlord states that there is continuous noise coming from the unit and ongoing complaints from other tenants regarding the noise. The landlord testified that on 5-March-2023, she went to the unit to check on the tenant after complaints of loud noise and screaming from the tenant that was in excess of 15-20 minutes. The landlord could hear the tenant begging someone to get out of her place. The landlord stated that she pushed the door open out of concern for the tenant's well-being and asked 3 visitors to leave the unit. At this point, there were several neighbors outside watching what was going on. On 17-May-2023, the tenant was overheard arguing with a person over drugs, screaming and asking for more drugs. The police were called and arrived. The landlord feels that this is interfering with the peaceful enjoyment of other tenants in [REDACTED] on the premises. The landlord submitted a copy of conversation with the tenant via text on 5-March-2023 (LL#1).
14. Issue # 2: Company that the tenant frequently brings into the unit that disrupts the peaceful enjoyment and reasonable privacy of the other tenants in [REDACTED]. The landlord states that the tenant continuously brings people into the unit and around the grounds that disrupt the peaceful enjoyment and reasonable privacy of the other tenants. The landlord testified that on 12-March-2023 there was an acquaintance of the tenant in the driveway approaching other tenants to buy drugs. This was reported to the Police. On 14-March, 2023, the landlord received a call about heavy traffic out back of the units,

coming and going. The landlord states that she was told that on 20-March-2023, 2 other tenants were asked if they wanted to buy drugs from a visitor at the tenants unit.

15. Issue # 3: Drugs on the premises. The landlord testified that there are drugs on the premises, both inside the tenants unit and around the grounds. This violates the terms of the rental agreement and interferes with the peaceful enjoyment of the other tenants. On 5-March-2023 when the landlord pushed the door open due to loud noises in the unit, she witnessed the presence of used needles all over the unit (LL#1 and LL#2).
16. Issue # 4: Rodent problem. The landlord states that there is a rodent problem on the premises due to the tenant leaving her garbage for long periods of time. The sight of rodents is disturbing to the other tenants and interferes with their peaceful enjoyment. The landlord testified that the unattended garbage bin has no cover, fills up with water and spills over onto the property leaving garbage and debris blowing around the premises which includes used needles and empty pill bottles (LL#2).

Tenant's Position

17. Issue # 1: Continuous loud noises coming from the unit. The tenant testified that she is generally a quiet person but do have a temper. She states that she has been involved in fights about 3 times in person on the premises and once over the telephone. The tenant states that the last time that she was extremely loud in the unit was during the 5-March-2023 incident when 3 acquaintances were there. She states that the noise from her unit on 17-March-2023 was her crying, not arguing.
18. Issue # 2: Company that the tenant frequently brings into the unit that disrupts the peaceful enjoyment and reasonable privacy of the other tenants [REDACTED] The tenant states that she do not bring people around the unit. She sates that the different vehicles coming and going belong to her dad, her dad's friend and some of her friends. She states that her friends have never used drugs on the premises.
19. Issue # 3: Drugs on the premises. The tenant testified that the pictures presented by the landlord showing used needles on a table were taken from her unit and did belong to her (LL#1). She testified that she had a relapse in January 2023 and is currently awaiting treatment to commence. The tenant made reference to section (6) of the rental agreement (TT#2) which states: "Any suspicion of and /or actual proof / evidence of drug-related activity will result in [REDACTED] and, eventually, could result in immediate eviction from the apartment." The tenant do not agree with an eviction notice without first providing her with the opportunity to seek help from the [REDACTED]
20. Issue # 4: Rodent problem. The tenant agrees that there is a rodent problem on the premises but denies that it has anything to do with her garbage bin. She agrees that she have left her garbage there for up to 2 weeks at a time but states that she needs help to bring the garbage bin to the curb, which is about 50 feet away, due to an injured leg. She was unaware that her garbage was causing any disturbance to the other tenants.

Analysis

21. Issue # 1: Continuous loud noises coming from the unit. I accept the landlord's testimony that the tenant has disturbed the other tenants in [REDACTED] due to loud noise and screaming on different occasions. The tenant confirmed that she was involved in fights on the premises that resulted in loud screaming. I find that this is sufficient reason for the

landlord to give a termination notice with cause under section 24 of the *residential tenancies Act, 2018*.

22. Issue # 2: Company that the tenant frequently brings into the unit that disrupts the peaceful enjoyment and reasonable privacy of the other tenants in [REDACTED] I accept the landlord's testimony that the company that the tenant brings around the premises disrupts the peaceful enjoyment of the other tenants. The landlord did not call upon any witnesses or provide any signed witness statements to support her claim. The tenant confirmed that 3 other people were visiting her unit on 5-March-2023 but denies having people around continuously. She states that if someone is approached in the driveway to purchase drugs that it really has nothing to do with her. Although I do agree with the tenant, the fact that she has admitted to having 3 people in her unit on 5-March-2023 who engaged in what the tenant referred to as a fight constitutes bringing people around whom disturb the peaceful enjoyment of other tenants. I find that this is sufficient reason for the landlord to give a termination notice with cause under section 24 of the *residential tenancies Act, 2018*.

23. Issue # 3: Drugs on the premises. I accept the landlord's testimony and evidence that there are traces of drugs in the unit and around the premises. Pictures submitted show evidence of drug use in the unit and the tenant when asked confirmed that the pictures were taken inside her unit (LL#1). The tenant made reference to section 6 of the rental agreement, which states; "Any suspicion of and /or actual proof / evidence of drug-related activity will result in [REDACTED] and, eventually, could result in immediate eviction from the apartment." I accept the landlord's testimony that she has tried on several occasions to get the tenant the help that she needs but the tenant has been unwilling to accept that help. The landlord provided a copy of text messages reaching out to the tenant offering support (LL#3). I find that the use of drugs on the premises is a valid reason for the landlord to give a termination notice with cause under section 24 of the *residential tenancies Act, 2018*.

24. Issue # 4: Rodent problem. I accept the landlords testimony that there is a rodent problem on the premises as a result of garbage left around however, the landlord did not provide evident to support that the rodents are there because of the tenant's garbage. Rodents are attached to sites for many reasons. I do not find that this was a valid reason for the landlord to give a termination notice with cause under section 24 of the *residential tenancies Act, 2018*.

25. The relevant subsections of section 10 of the *Residential Tenancies Act, 2018* state:

- i. **Statutory conditions**
- ii. **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:**
 - iii. ...
 - iv. **2. Obligation of the Tenant - The tenant shall keep the residential premises clean, and shall repair damage caused by a wilful or negligent act of the tenant or of a person whom the tenant permits on the residential premises.**

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.

26. The notice was served under Section 24, of the *Residential Tenancies Act, 2018*, which states:

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.

27. The tenant was given a termination notice on 13-March-2023 to vacate the premises on 31-March-2023. This meets the timeline of “not less than 5 days after the notice has been served” as set out in section 24 of the *Act*. The termination notice meets the requirements of the *Act* and is a valid notice.

Decision

28. I find that the termination notice with cause issued on 13-March-2023 under section 24 of the *Act* is a valid notice.

29. I find that the tenant should have vacated the premises by 31-March-2023.

Summary of Decision:

30. The termination notice issued on 13-March-2023 under section 24 of the Act is a valid notice.
31. The tenant shall vacate the premises immediately
32. 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.
33. The landlord will be awarded an Order of Possession.

May 25, 2023

Date

Pamela Pennell, Adjudicator
Residential Tenancies Office