

Residential Tenancies Tribunal

Application 2023-0458-NL

Decision 23-0458-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 1:43 p.m. on 22-June-2023.
2. The applicant, [REDACTED] hereinafter referred to as "the landlord", participated in the hearing. The respondent, [REDACTED] hereinafter referred to as "the tenant", did not participate.

Preliminary Matters

3. The tenant did not attend the hearing. I was unable to call him as the landlord did not have a telephone number for him. The landlord submitted an affidavit with the application stating that he had served the tenant with the notice of hearing on 18-May-2023 personally at the residential premises (LL#1). 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. 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.
4. The rental unit is an apartment in a triplex building. There is a written month to month rental agreement that commenced on 1-September -2021 under a different landlord. The current landlord took over the unit in September 2022. Rent is \$600.00 per month and is paid on the first of each month. There is no security deposit.

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

Relevant Submissions

8. The landlord submitted a copy of a termination notice issued to the tenant on a *Landlord's Notice to Terminate Early – Cause* form (LL#2). It was dated for 25-April - 2023 under sections 20, 21, 22 and 24 to vacate the premises by 31-May-2023.

Landlord's Position

9. The landlord stated that he has received several complaints from tenants who reside in the other units of the triplex with regards to the garbage on the premises. The landlord testified that there is a lot of garbage accumulated around the property including a rotting moose carcass, that has been there since October 2022 and he testified that rodents are multiplying in large numbers due to the smell in the area. The landlord stated that the premises has become a safety hazard for the other tenants in the triplex.
10. The landlord testified that both he and the tenant have received notices from the [REDACTED] [REDACTED] stating that quite a few complaints have been received in their Office regarding the state of the premises and the town counsel threatened other necessary actions if not cleaned up immediately. The landlord states that the tenant needs to vacate the premises so he can get it cleaned up to ensure that the other tenants can enjoy their surroundings.

Analysis

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

- i. Statutory conditions*
- ii.*
- iii. 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.

12. 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.

13. The tenant was given a termination notice on 25-April-2023 to vacate the premises on 31-May-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.
14. I accept the landlord’s testimony that he has received several complaints from other tenants in the triplex about the garbage and the moose carcus left on the premises. The landlord submitted evidence to support his claim (LL#3). The pictures are very detailed as to what the premises look like and what the other tenants have to endure on the property.
15. I accept the landlord’s testimony that the [REDACTED] has given direction to clean up the garbage and I understand the importance of dealing with this issue as soon as possible. The landlord submitted a copy of the notice for review (LL#4).
16. I find that the state of the premises has been caused by the respondent and the area poses a safety hazard for the other tenants.
17. I accept the landlord’s claim that the peaceful enjoyment of the tenant’s in the triplex is being interfered with and their rights as tenants have been violated. I find that the tenant did not meet his obligations as set out in the Act under sections 10 and 24.
18. I find that the tenant should have vacated the unit on 31-May-2023

Decision

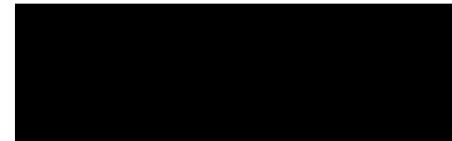
19. The landlords claim for vacant possession succeeds.
20. As the landlord is successful in his claim for vacant possession under section 24, the other sections of *The Act* will not be analyzed as per the termination notice dated 25-April-2023.

Summary of Decision:

21. The termination notice issued on 25-April-2023 under section 24 of the Act is a valid notice.
22. The tenant shall vacate the premises immediately.
23. 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.
24. The landlord will be awarded an Order of Possession.

July 11, 2023

Date



Pamela Pennell, Adjudicator
Residential Tenancies Office