



Residential Tenancies Tribunal

Application 2023-0463-NL

Decision 23-0463-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 11:15 on 19-June-2023.
2. The applicant, [REDACTED] represented by hereinafter referred to as "the landlord" attended by teleconference.
3. The respondent, [REDACTED] hereinafter referred to as "the tenant" did not attend.

Preliminary Matters

4. The tenant was not present or represented at the hearing and there was no number provided to reach her by telephone at the start of the hearing. 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 she has been properly served. The landlord submitted an affidavit with his application stating that he had served the tenant with notice of the hearing, personally on 04-June-2023. 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 her absence.

Issues before the Tribunal

5. The landlord is seeking:
 - Vacant possession of rental premises
 - Hearing expenses reimbursed \$20.00

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 decision² 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 stated that he has a verbal rental agreement with the tenant. He said she moved in around April 2022. Her rental agreement is monthly, she pays \$750.00 each month for rent of an apartment in a four-plex, which is due in full on the first day of the month. She paid a security deposit of \$562.50 before she moved in and the landlord said he is still in possession of the deposit.
9. The landlord submitted a termination notice (LL#02) he served to the tenant. The notice is a Section 24 notice on a Landlord's Notice to Terminate Early – Cause. It is signed and dated for 14-May-2023 with a termination date of 20-May-2023. The landlord said that he served the notice to the tenant on 14-May-2023 in person.
10. The landlord said that there have been ongoing issues with the tenant. He explained that she calls about once a week around 4:00 or 5:00 a.m. in the morning to complain about other tenants or issues with the unit. He said that he believes she is intoxicated when she calls as she is often incoherent. This has been ongoing for the past 3 months.
11. Additionally, he believes that there are issues with her current relationship he has heard them fighting and there could be violence.
12. He said that there is a lot of damage to the unit. He has had to replace the toilet two times in the past 3 months. There are items flushed in the toilet that are large and he has to remove the toilet to clear the drain. He said the last item was the size of a hockey puck.
13. He explains that because he has been in the unit to repair the toilet he has seen the damages to the apartment. He said that the front window has been broken out and he put up board to cover it. There is a 2 x 8 section of the living room floor missing and pieces of tile missing from the kitchen. He said that there are holes in the walls and there are doors damaged. The kitchen cupboards are also damaged.
14. A further issue is that the tenant's garbage has needles that are not properly contained. He submitted a letter from the City (LL#03) that informs him he will be charged \$5,000.00 if they find needles in the garbage going forward. He said he has spoken to the tenant about this a number of times; however the needles are still found in the garbage. He said he goes there every Tuesday: dumps her garbage and rakes through to find and remove the needles. He finds a lot of needles (LL#04) picture provided and stores them in sealed containers in accordance with the City bylaws. He then has to go back on Wednesday before the garbage goes out and make sure more needles weren't thrown out Tuesday night. He said that she denies that the needles are hers, but he states that when he goes through the garbage he has found mail and information with her name on it so he knows that the bags with the needles are hers.

15. Additionally, he is receiving complaints from others who live in the four-plex. They want something done about the tenant and are threatening to move.
16. The landlord states that the tenant's behavior is interfering with the peaceful enjoyment of the other tenants in the building he also confirms that he has had to go beyond what is fair as a landlord, because of the tenant's actions. She is waking him at night with phone calls, she has damaged the apartment and he is having to expose himself to dirty needles so that he doesn't incur a \$5,000.00 fine. He is seeking vacant possession of the apartment.

Analysis

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.

18. 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.
19. I accept the testimony and evidence of the landlord that the tenant's behavior is disruptive. It is reasonable to believe that her behaviors would interfere with the landlord. He has not only incurred damages to his property, he is potentially exposing himself to dangerous goods while cleaning up dirty needles, additionally the late night calls are interfering with his ability to sleep.
20. I agree with the landlord and find that the landlord's claim for vacant possession succeeds. The tenant should have vacated the property by 20-May-2023.

Decision

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

Issue 2: Hearing expenses reimbursed \$20.00

22. The landlord submitted the receipt for \$20.00 for the cost of the hearing (LL#05) and pursuant to policy 12.01, as his claim has been successful is entitled to reimbursement of that cost from the tenant.

Summary of Decision

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

The tenant shall:

- Vacate the premises immediately.
- 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.
- The tenant shall reimburse the landlord \$20.00 for her hearing expenses.

June 30, 2023

Date



~~Salma Dennis Williams, Registrar~~
Residential Tenancies Office