



Residential Tenancies Tribunal

Application 2023-0552-NL

Decision 23-0552-00

Jacqueline Williams
 Adjudicator

Introduction

1. Hearing was called at 2:15 p.m. on 22-January-2023.
2. The applicants [REDACTED] hereinafter referred to as "tenant1, tenant2 and tenant3," attended by teleconference.
3. The respondents [REDACTED] she attended and hereinafter will be referred to as "the landlord."

Preliminary Matters

4. The tenants submitted an affidavit (TT#01) stating that they had served the landlord with notification of today's hearing electronically on 24-June-2023; the landlord confirmed receipt of notification as stated. Tenant1 confirmed that they did not provide the other landlord will personal notice, the landlord waived the second notification.

Issues before the Tribunal

5. The tenants are seeking:
 - Validity of termination notice

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 22: Notice where tenant's obligation not met, and Section 24: Interference with peaceful enjoyment and reasonable privacy.

Issue 1: Validity of termination notice**Tenants' Position**

8. Tenant1 reviewed the terms of the rental agreement. She stated that they all signed a written term agreement with the landlords. The term began 01-April-2023 and will end 31-March-2024. They pay \$1,850.00 rent each month that doesn't include utilities. They also paid a security deposit of \$925.00; she believes that the landlord would still be in possession of that deposit.
9. Tenant1 submitted the termination notice (TT#02) served to them electronically on 06-June-2023. The notice is dated for 06-June-2023 with a termination date of 25-June-2023. The notice is on a landlord's notice to terminate cause form for both Section 22: Failure to keep the premises clean and to repair damage, as well as Section 24: Interference with peaceful enjoyment and reasonable privacy
10. Tenant1 declared that she is shocked by the sex trade accusation and that she and tenant2 just happen to have a lot of male friends. She explains that the stripper pole was never affixed to the structure and is free standing.
11. Tenant2 states that the stripper pole is now down.
12. Tenant3 doesn't recall sending the landlord emails about the other tenants, she states that the house is cleaner now and that the stripper pole was never in the bedroom but instead it was set up in the downstairs recreation room. She said that the stripper pole is currently down.

Landlord's Position

13. The landlord confirmed the details of the rental agreement. She states the agreement was for four individuals and one moved. All three tenants pay her separately for rent, but the agreement is for all three.
14. The landlord explained that all of the renters appeared to be lovely when they first entered the agreement. Shortly after they moved in she started receiving daily complaints from a fourth tenant who moved out and tenant3. The emails detailed not being able to eat at the house because it was so dirty there. She also complained that tenant1 and tenant2 had a lot of men coming and going. The former tenant indicated that she believed that there was a sex service being provided and that there was a stripper pole installed in the house.
15. The landlord reviewed her emails and determined that tenant3 did send her emails with concerns about the ongoing issues in the house.
16. The landlord confirmed that she didn't give a notice to clean or repair in relation to the cleaning.

17. The landlord's notice is dated for 06-June-2023³ and she stated she served them electronically on the date it is written: 06-June-2023. She acknowledges that the notice is not signed, she said that she filled this out on line and the signature showed when she created it, but it must not have saved. The termination date is for 25-June-2023. The notice is on a landlord's notice to terminate cause form for both Section 22 Failure to keep the premises clean and to repair damage, as well as Section 24 Interference with peaceful enjoyment and reasonable privacy. She confirms that she served the tenants with notification of termination electronically.
18. The landlord stated that this situation is causing her a great deal of stress and she has had to see her doctor due to the increased stress.

Analysis

19. The termination notice is not valid for a number of reasons.
20. The first reason is the notice is not signed by the landlord thereby making it invalid, as per Section 22 and Section 24, as follows:

Notice where tenant's obligation not met

22. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes statutory condition 2 set out in subsection 10(1), the landlord may give the tenant notice requiring the tenant to comply with the condition.

(2) Where a tenant contravenes statutory condition 2 set out in subsection 10(1) within 3 days after the notice under subsection (1) has been served or within a reasonable time, 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.

(3) 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.

And

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.

- 4
21. The notice also is not valid, because in accordance with Residential Tenancies Policy 07-002, a landlord must first give the tenants notice to carry out the repair, as follows:

"Where a tenant fails to keep the premises clean or repair damages, the landlord may give the tenant written notice to clean or repair the damage. If the tenant fails to comply within 3 days or a reasonable period, the landlord may give the tenant a termination notice of not less than five days."

22. Additionally, to terminate early for cause due to interference with peaceful enjoyment and reasonable privacy, it has to be shown that in accordance with Residential Tenancies Policy 07-002, the tenant has to be interfering with either the landlord or other tenant's peaceful enjoyment. The landlord is presenting a case stating that the tenants are interfering with their roommate's peaceful enjoyment, this doesn't apply to that Section of the Act. Section 24 applies to the interference of peaceful enjoyment of other tenants in other units, not people who are roommates, partners or family who reside together. See below:

"If the tenant interferes with the peaceful enjoyment and reasonable privacy of other tenants in the residential complex, or the peaceful enjoyment and reasonable privacy of the landlord, 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."

23. For the above listed reasons, the notice is not valid.


Decision

24. I find the notice with a termination date of 25-June-2023 is not valid.

Summary of Decision

25. The termination notice with a termination date of 25-June-2023 is not valid.

July 27, 2023
Date


Jacqueline Williams, Adjudicator
Residential Tenancies Office