

Residential Tenancies Tribunal

Application: 2023 No. 724NL

Decision 23-0724-00

John R. Cook
Adjudicator

Introduction

1. The hearing was called at 1:53 PM on 11 September 2023 via teleconference.
2. The applicant, [REDACTED], hereinafter referred to as "the landlord", participated in the hearing. The respondent, [REDACTED], hereinafter referred to as "the tenant", was also in attendance.

Issues before the Tribunal

3. The landlord is seeking an order for vacant possession of the rented premises.

Legislation and Policy

4. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
5. Also relevant and considered in this case are sections 10 and 24 of the *Residential Tenancies Act, 2018*.

Issue 1: Vacant Possession of Rented Premises

Relevant Submissions

6. The landlord stated that he had entered into a verbal rental agreement with the tenant on 27 April 2023. The current rent is set at \$1700.00 per month, and the landlord stated that the tenant had paid a security deposit of \$850.00.

7. The landlord complained that the tenant was keeping a pet dog at the unit, without his permission, and he claimed that there was a significant amount of dog feces on the property as well as other garbage.
8. The landlord stated on 02 August 2023 he issued the tenant a 24-hour notice that he was going to enter the rented premises for an inspection, and he stated that he went to the property on the following day. During that visit, the landlord stated the tenant would not him allow access to the unit to complete that inspection, and he stated that that he and the tenant had a verbal confrontation. With his application, the landlord submitted an audio recording of that encounter.
9. The landlord stated that during the visit, the tenant had threatened his life, and he claimed the tenant had said that he would “skin him alive” and that he would “drop him where he stands.” He also testified that the tenant had lunged at him, as if to push him, and he claimed that he had also lunged at his wife.
10. Because of the tenant’s behaviour, the landlord stated that he has had to resort to installing security cameras at his property, and he testified that both he and his wife are fearful of the tenant.
11. Because of that encounter, on 10 August 2023, the landlord issued the tenant a termination notice, and a copy of that notice was submitted with his application. That notice was issued under section 24 of the *Residential Tenancies Act, 2018* (notice where tenant contravenes peaceful enjoyment and reasonable privacy) and it had an effective termination date of 18 August 2023.
12. The landlord stated that the tenant has not moved out of the unit, as required, and he is seeking an order for vacant possession of the rented premises.

The Tenant’s Position

13. The tenant acknowledged receiving the termination notice on 10 August 2023.
14. The tenant also acknowledged that he and the landlord had a verbal confrontation on 03 August 2023. However, he denied that he had lunged at the landlord or the landlord’s wife, and he claimed that he was merely standing in front of the landlord to prevent from entering the property. With respect to the verbal threats, he argued that they were taken out of context.
15. The tenant argued that he had done nothing which should make the landlord or his wife feel unsafe, and he pointed out that he had only once been near their adjoining unit during his tenancy. With respect to the issue of peaceful enjoyment, the tenant suggested that it was actually the landlord who had been interfering with his quiet enjoyment, and not the other way round, and he claimed that the landlord had been entering onto his property without proper notice.

Analysis

16. Statutory condition 7.(a), set out in section 10 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.

and section 24 of this Act 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.

(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.

17. Based on the testimony provided at the hearing and on review of the submitted audio tape, I agree with the landlord that he was in a position, on 10 August 2023, to issue the tenant a termination notice under this section of the Act.

18. Firstly, in that audio tape, the tenant can be heard yelling at the landlord, using profanities, and he does indeed state to the landlord that that he would “fucking

skin you alive" and that he would "fucking drop you where you stand". I agree with the landlord that these are threats of bodily harm, and I find that uttering those sorts of statements, in the manner in which the tenant did in that recording, is unreasonable and not something that landlords should have to tolerate from their tenants.

19. And secondly, landlords do have a right to carry out periodic inspections of their rental units, and the only requirements put on a landlord is that he must give his tenant a 24-hour notice that he would be entering. It is evident from that audio tape that the tenant had refused the landlord entry on 03 August 2023, and the tenant even testified at the hearing that he stood in the landlord's way to prevent him from entering. I also accept the landlord's claim that this was the third time that he was refused entry to the unit.
20. As the termination notice meets all the requirements set out in this section of the Act, and as it was properly served, I find that it is a valid notice.

Decision

21. The landlord's claim for an order for vacant possession of the rented premises succeeds
22. 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.

19 September 2023

Date

John R. Cook
Residential Tenancies Tribunal