

Residential Tenancies Tribunal

Application 2023-0960-NL

Decision 23-0960-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:04 a.m. on 20-November-2023.
2. The applicant, [REDACTED], represented by [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent, [REDACTED], herein referred to as “the tenant” attended by teleconference.

Preliminary Matters

4. The landlord submitted an affidavit with his application stating that he had served the tenant with the notice of hearing personally at the residential premises on 7-November-2023 (LL#1). The tenant confirmed receiving the document on that day. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. There is a written term rental agreement which commenced on 1-April-2023. The rental unit is a basement apartment in a 2-apartment house. Rent is \$975.00 per month due on the first of each month. A security deposit of \$731.25 was paid on 1-April-2023 and is still in the possession of the landlord.

Issues before the Tribunal

6. The landlord is seeking:
 - An order for vacant possession of rented premises

Legislation and Policy

7. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.

8. Also, relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 10; Statutory conditions, Section 24: Notice where tenant contravenes peaceful enjoyment and reasonable privacy.

Issue # 1: An Order for Vacant Possession of Rented Premises

Relevant submission:

9. The landlord submitted a termination notice under Section 24; Notice where tenant contravenes peaceful enjoyment and reasonable privacy. The notice was dated for 14-August-2023, with a termination date of 20-August-2023 (LL#2).

Landlord's Position

10. The landlord testified that the tenant has been disrupting the peaceful enjoyment and privacy of the other tenants residing at the residence.
11. The landlord provided a written witness affidavit from one of the other tenants who resides in the main area of the house. The witness testified that there have been loud noises coming from the basement apartment since April 2023 when the respondent moved in. The witness stated that there is fighting going on in the unit and she stated that she can hear the walls getting punched and curse words been used. The witness stated that the children who reside upstairs are very scared and have trouble sleeping at night.

Tenant's Position

12. The tenant did not dispute that she has been the cause of noise and disruption within the residence. The tenant apologized for her behavior and stated there will not be anymore fighting or yelling.

Analysis

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

14. 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(a) Peaceful enjoyment and reasonable privacy- 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.

15. The tenant was given a termination notice on 14-August-2023 to vacate the premises on 20-August-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 timeline requirements of the *Act*.
16. Based on the landlord’s testimony and the witness affidavit, I accept that the tenant is responsible for interfering with the peaceful enjoyment of the other tenants who reside at the premises. The tenant did not dispute what has been going on in her unit and apologized sincerely for the disruption to the other tenants. In accordance with the *Residential Tenancies Act, 2018*, I find that the respondent has contravened statutory condition 7(a) as set out in subsection 10(1) as stated above. As such, the termination notice meets the requirements of the *Act* and is a valid notice.
17. I find the tenant should have vacated the premises by 20-August-2023.

Decision

18. The landlord’s claim for an order for vacant possession of the rented premises succeeds.
19. The tenant shall vacate the premises immediately.
20. 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.
21. The landlord is granted an Order of Possession.

Summary of Decision

22. The tenant shall vacate the property 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.

December 5, 2023

Date



Pamela Pennell
Residential Tenancies Office