

## Residential Tenancies Tribunal

Application 2023-1172-NL

Decision 23-1172-00

Jacqueline Williams  
Adjudicator

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### Introduction

1. Hearing was called at 2:00 p.m. on 17-January-2024.
2. The applicant, [REDACTED] 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 I was unable to reach him by telephone [REDACTED] 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 he has been properly served. The landlord submitted an affidavit (LL#01) with his application stating that he had served the tenant with notice of the hearing, in person, on 26-December-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 his absence.

### 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 the monthly rental agreement held with the tenant (LL#02). The tenant has lived at the premises for approximately 6 years. In April 2022 the landlord purchased the home and the rental agreement between these two parties began. The rental period is from the first day of the month until the last. Rent of \$550.00, is due in full on the first day of the month. The tenant rents a room in a house, there are 3 other rooms for rent, two of them are currently rented. His rent includes utilities and there is a common area (kitchen, washroom, living room) that all the renters share. The tenant paid a security deposit of \$275.00 to the previous homeowner and the landlord received this deposit upon purchase of the home. The landlord is still in possession of this deposit.
9. The landlord submitted the termination notice (LL#03) served to the tenant. The notice is a Section 24 notice (LL#03) on a Landlord's Notice to Terminate Early – Cause. It is signed and dated for 01-December-2023 with a termination date of 08-December-2023. The landlord said that this notice was served to the tenant in person on 01-December-2023. The tenant is still living in the premises.
10. The landlord said that there have been ongoing issues with the tenant. The landlord was out of province in the beginning of 2023. There was a renter who moved out of one of the rooms in June 2023 and before the renter left, the room had been cleaned out and the door was locked. While the landlord was away the other renters would occasionally mention that the house was filled with garbage and unlivable.
11. In October it was discovered that the tenant had entered the empty room and was illegally renting it by the night throughout the summer and fall months. The landlord provided a picture of the condition of the room (LL#05) in October. There are holes in the walls, there are empty beer cans, drug, and needle paraphernalia in the room. He said that there are additional needles under the bed and in the drawers. The landlord states that this room was completely cleared out and ready to be rented when the previous renter moved out. The landlord provided pictures of the main living room (LL#04), which is a common area for all renters. The tenant has this room filled with garbage and debris.
12. The landlord has shown that the tenant barricaded the front door with a chair and two pieces of 2 x 4. Picture provided (LL#06). The other renters said that they believe the tenant feels unsafe in the house and he is doing this to secure the front door. The renters and the landlord mainly use the side door. There is concern by the other renters that this might be a fire hazard, and should there be an emergency, they would have to take apart this barricade to be able to get out.
13. The landlord provided a picture of the porch/laundry area (LL#07) for the side entry. He points to the back window that has been broken out and repaired with Tuck tape. The other renters told the landlord, that the tenant and his nephew, had been selling drugs and the nephew owed someone money. Because of this drug debt there was an altercation, and the window was broken, the tenant attempted to fix it with Tuck tape.
14. The landlord provided pictures from 24-October-2023 (TT#08, 09 & 10), these show that the "empty" room, hallways and living areas are full of garbage. The landlord explained

that the tenant has been collecting belongings on bulk garbage day, throughout the neighbourhood and trying to resell on Facebook Marketplace. The tenant has acknowledged this to the landlord. The other renters are concerned about the potential for beg bugs and rodents from these items.

15. The landlord rented a dumpster and cleared out the house of the garbage 24-October-2023. Pictures provided showing that the area has been cleared away of the garbage (LL#07, LL#13 & LL#15).
16. The landlord explains that sometime in September/October someone attempted to shoot at the tenant from inside the house. The landlord provided pictures of the bullet holes in the living room window (LL#11 & LL#12). There is a second bullet hole in the tenant's room window, but the landlord was not able to enter the tenant's rented room to take this picture. There was a police report filed. He does point out that in the December picture of the bedroom (LL#17) you can see where the bullet enters the wall. The tenant confirmed to the landlord that he was shot at from inside the house.
17. In late October or early November there was another shooting, this one is from outside the house, the bullet went into the main living room area. The landlord said that another renter was in the room at the time and was seated on the couch. He said that the bullet just missed this renters head by inches. He provided a picture and said that you can see where the bullet hole is under the Tuck tape (LL#14). They moved the couch after this, so it is no longer in front of the window, however he said at the time of that shooting the couch was in front of the window as shown in picture (LL#13). They believe that this shooting was also meant for the tenant.
18. The landlord said that one of the other renters stated that the tenant was trying to assault him and being aggressive on 31-December-2023. The landlord requested a police officer to enter the house with him to keep the peace. When he entered the house, he is once again faced with a house filled with garbage. The tenant is now staying in the living room (LL#14) because his room is so blocked with stuff, including tires (LL#17), that he is unable to stay in his room. The other renters now have no access to this area.
19. The landlord was told by one of the renters that he witnessed several people enter the home and assault the tenant sometime in December. During the assault they put his head through the stove and microwave they also damaged the cupboards, the landlord points out there is blood on the counter in the picture (LL#18). The landlord indicates the picture shows that there is a dirty needle on the kitchen table as well as other clean needles in a box (LL#19). The tenant told the landlord that he did seek medical attention after this assault. The landlord said that there are a number of warrants for the tenant and he believes because of this, the tenant would not report the assault to the police.
20. The landlord states that the tenant's behavior is interfering with the peaceful enjoyment of the other renters in the home. He believes that this is a dangerous situation and there are other people at risk. He explained that the tenant showed him an assault style weapon in the fall, and he states the presence of this weapon in a home where there is violence is dangerous. The other renters have lost the use of the common area and their safety is in jeopardy. He is seeking vacant possession of the room.

## **Analysis**

21. 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.***

22. 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.

23. I accept the testimony and evidence of the landlord that the tenant's behavior is disruptive. The evidence presented supports the allegations that the tenant is interfering with the peaceful enjoyment and reasonable privacy of the other tenants.

24. I agree with the landlord and find that the tenant's behavior is negatively impacting the other the renters in the house. The landlord's claim for vacant possession succeeds. The tenant should have vacated the property by 08-December-2023.

**Decision**

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

**Summary of Decision**

26. 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.

January 19, 2024

Date

Jacqueline Williams, Adjudicator  
Residential Tenancies Office