

Residential Tenancies Tribunal

Application 2024-0190-NL

Decision 24-0190-00

Pamela Pennell
Adjudicator

Introduction

1. Hearing was called at 9:05 a.m. on 25-March-2024.
2. The applicant, [REDACTED] represented by [REDACTED] (applicant 1) and [REDACTED] (applicant 2), hereinafter referred to as “the landlord” attended by teleconference.
3. The respondent [REDACTED] hereinafter referred to as “the tenant” attended by teleconference.

Preliminary Matters

4. The landlord submitted an affidavit with their application stating that they served the tenant with the notice of hearing personally at the residential premises on 12-March-2024 (LL#1). The respondent confirmed receipt of the document on that date. In accordance with the *Residential Tenancies Act, 2018* this is good service.
5. The unit is a quadplex with 3 other families sharing the grounds and the parking lot with the respondent. There is a written month-to-month rental agreement which commenced in June 2021. Rent is \$725.00 per month due on the first of each month. A security deposit of \$700.00 was paid in June 2021 and is in the landlord’s possession.

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, and 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 23-February-2024, with a termination date of 1-March-2024 (LL#2).

Landlord's Position

10. The landlord testified that the tenant has been interfering with the peaceful enjoyment and reasonable privacy of the other 3 families residing at the quadplex. Landlord 2 testified that she has to deal with complaints every morning from her other tenants in the quadplex regarding the events of the previous night. Landlord 2 stated that the complaints range from loud noises, banging, loud vehicles in the parking lot to the presence of troubled individuals at the premises who sometimes try to enter the other units. Landlord 2 stated that due to the continuous disturbances, the other tenants feel uncomfortable and unsafe especially at night. Landlord 2 also stated that her livelihood is at risk, as the other tenants have threatened to vacate if the situation is not rectified. The landlord submitted 4 separate sworn witness affidavits from the other tenants within the quadplex to corroborate her claims (LL#3). Landlord 2 testified that she approached the respondent on several occasions to try to talk to him and when that did not work, she contacted both her *MHA* and the *Police* as she did not know what else to do. Landlord 1 testified that one of the frequent visitors to the area is a known criminal which contributes to the other tenant's fears and sleepless nights.

Tenant's Position

11. The tenant did not dispute that there have been disturbances at the unit due to the presence of other individuals; however, the tenant did dispute that he had any control over the situation. The tenant testified that he doesn't invite those people and they show up when they are drunk. The tenant stated that one individual does come by late at night and the muffler is off his car which wakes the other tenants, and he testified that he does not invite that person to his unit, and he has told him in the past to fix his muffler if coming around. The tenant testified that the others who come around frequently are there to clean his apartment.

Analysis

12. 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.

13. 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.

14. The tenant was given a termination notice on 23-February-2024 to vacate the premises on 1-March-2024. 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*.

15. Based on the landlord's testimony and the supporting sworn witness affidavits, I accept that the respondent is responsible for interfering with the peaceful enjoyment of the other tenants who reside at the premises. The affidavits did not give specific details or dates of events that had occurred; however, the fact that all of the other tenants in the quadplex provided affidavits making reference to similar circumstances and disturbances happening quite often at the premises does corroborate the landlords' testimony and warrant some weight. The landlord has also testified that she has addressed the noise issue with the tenant on several occasions and is in the process of losing her other tenants as a result of the continuous disturbances. The tenant did not dispute that the people who come around his unit late at night disturb the other tenants; however, the tenant stated that he has no control of other people. I asked the tenant if the person with the loud vehicle who frequents his unit is his friend and the tenant responded that he is not his friend but rather an acquaintance who comes around looking for beer and money. I accept the tenant's testimony that he does not openly invite this person or others to come around; however, the fact that the tenant has never done anything to prevent these people from coming and going also warrants weight. I find that the tenant did have the ability to control the situation as it was an ongoing issue, he was aware of how the other tenants felt and the tenant took no action to rectify or eliminate the situation. I accept that the people who come around the premises are there to visit or interact with the respondent and even if he does not consider them friends or even if he asks them not to visit, it doesn't change that fact that they do come around because he resides there. The other tenants have the right to peace and privacy within their own homes and for that reason, I find that the respondent has interfered with the peaceful enjoyment and reasonable privacy of the other tenants.

16. 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 that the tenant should have vacated the premises by 1-March-2024.

Decision

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

Summary of Decision

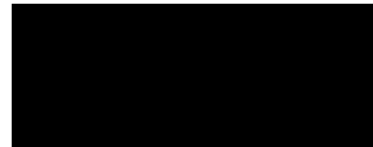
19. The termination notice given on 23-February-2024 under Section 24 of the *Act* is a valid notice.

20. The tenant shall vacate the property immediately.

21. The landlord will be awarded an Order of Possession.

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.

April 1, 2024
Date



Pamela Pennell
Residential Tenancies Office