

Residential Tenancies Tribunal

Application 2024-0268-NL

Decision 24-0268-NL

Michael Reddy
Adjudicator

Introduction

1. The hearing was called at 1:46 PM on 6 May 2024 via teleconference.
2. The applicant, [REDACTED], who was represented by [REDACTED], hereinafter referred to as "the landlord", attended the hearing.
3. The respondent, [REDACTED], hereinafter referred to as "the tenant", attended the hearing.

Preliminary Matters

4. The landlord submitted an affidavit (Exhibit L # 1) with the application stating that the tenant was served via electronic mail on 11 April 2024 at e-mail address: [REDACTED]. The tenant did not dispute receipt of the Application for Dispute Resolution. In accordance with the Residential Tenancies Act, 2018, this is considered good service.
5. The landlord is seeking an order for vacant possession of the rental address and did not amend her application during the hearing.

Issues before the Tribunal

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

Legislation and Policy

8. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*
9. Also, relevant and considered in this case are the following sections the *Residential Tenancies Act, 2018*: Section's 10, 20, 34 and 35, as well as Policy 7.

Issue 1: Validity of Termination Notice / Vacant Possession

Landlord Position

10. The landlord, with her application, provided a copy of the written monthly rental agreement (Exhibit L # 2) which presents the tenant as moving in to the four-bedroom house at [REDACTED] on 1 December 2022. The monthly rent, which is due on the first of each month, is \$600.00 and includes all utilities. There was no security deposit collected on this tenancy.
11. The landlord stated on 24 January 2024, the tenant was issued a Landlord's Notice to Terminate- Standard with a request for the tenant to vacate the rental by 30 April 2024 (Exhibit L # 3). The landlord testified this notice was personally served to the tenant on 24 January 2024. The landlord further testified that she delivered two additional termination notices to the tenant on 29 January 2024; one alleging a breach of material terms of the rental agreement with a termination date of 29 February 2024, and the second for interference with peaceful enjoyment with a termination date of 5 February 2024.
12. The landlord offered testimony that concerns for the wellbeing of the tenant resulted in the Royal Newfoundland Constabulary being requested to attend the property to conduct a wellness check on the tenant on or about 20 January 2024. This visit from police authorities revealed that the tenant had changed to the lock on the door of [REDACTED] [REDACTED], which the landlord had no knowledge of and did not possess a key to the entry way of the rental (Exhibit L # 4). She also noted the installation of a camera, in violation of the terms of City Housing. Following this, the tenant was issued in-person, a Landlord's Notice to Terminate Early- Cause under Section 20 of the *Residential Tenancies Act*, 2018 on 29 January 2024 with a request for the tenant to vacate by 29 February 2024 (Exhibit L # 5).
13. The landlord also suggested that she had been contacted by other tenants of the [REDACTED] [REDACTED] about concerns with a dog being in the rental property which was not permitted. However, she also noted that this situation has been resolved and there is no evidence to suggest that a dog remains on the premises.
14. The landlord stated [REDACTED] had been contacted by the City [REDACTED] [REDACTED] in relation to excess garbage being on the property of the rental unit. A copy of an email from the City [REDACTED] Housing Manager, dated 13 October 2023 was provided in support of this issue. This situation resulted in the tenant being issued, in-person, a Landlord's Notice to Terminate Early- Cause under Section 24 of the *Act* on 29 January 2024 with a request for the tenant to vacate by 5 February 2024 (**Exhibit L # 6**). The landlord confirmed that this matter has been rectified.

Tenant Position

15. The tenant did not dispute that she received the Application for Dispute Resolution or any of the termination notices as suggested by the landlord.

16. The tenant testified she did have a dog in the rental property, which is no longer in the rental as of the date of the hearing (6 May 2024). The tenant stated after being made aware of concerns with garbage outside of the rental unit, this issue has been rectified and the garbage has been removed.
17. The tenant stated she had changed the locks of the entry of the rental unit, alleging that she changed the locks due to alleged tampering from a neighbor who put pieces of metal in the locks rendering them unusable. She further testified that the police did attend her rental to complete a wellness check. She testified that she was away from the premises at that time, and the police damaged a window and the front door while gaining access to the premises to check on her wellbeing. During the hearing, the tenant testified that the landlord currently has a key to the entry door of the rental unit, as they had someone come in from the city to change the locks again.

Analysis

18. The landlord issued the tenant three notices to terminate on the following dates:
 - Under Section 18 on 24 January 2024 to be out on 30 April 2024
 - Under Section 20 on 29 January 2024 to be out on 29 February 2024; and
 - Under Section 24 on 29 January 2024 to be out on 5 February 2024.
19. Applicable to this situation and Application for Dispute Resolution is Policy 07-001 of the *Residential Tenancies Program, Notice of Termination*. As stated in that policy,

Termination by More than 1 Notice

"If a termination notice is already in place and a second notice is issued by either party whereby the termination date is earlier than that specified in the first notice, then so long as this second notice is valid, the tenant is required to vacate on the date specified in the second notice. If a termination notice is already in place and a second notice is issued by the same person whereby the termination date is later than that specified in the first notice, then the person issuing the second notice has thereby indicated there they are intending the tenancy to be extended to the date set out in the second notice.

20. In regard to the termination notice issued on 29 January 2024 to vacate the premises on 5 February 2024; there is insufficient proof provided to support a termination on the grounds of interference with peaceful enjoyment and reasonable privacy. The termination notice is determined invalid.
21. The Section 20 Termination Notice issued to the tenant in person on 29 January 2024 with a request for the tenant to vacate by 29 February 2024, next requires consideration.
22. Statutory condition 6, 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 conditions governing the residential premises apply:

...

6. Entry Door- Except by mutual consent, neither the landlord nor the tenant shall, during the use or occupancy of the residential premises by the tenant, alter a lock or locking system on the door that give entry to the residential premises.

23. I accept the testimony of the landlord and the tenant that the lock on the entry way of [REDACTED] had been changed without prior knowledge or approval of the landlord. While the tenant provided testimony at the hearing regarding her reasons for changing the locks and installing a camera, her actions were in violation of statutory conditions and interfered with the rights of the landlord. Testimony and evidence presented demonstrates that she had changed the lock of the entry way without the approval of the landlord.
24. The validity of the termination notice is determined by its compliance with the notice requirements identified in Section 20 and 34 as well as the service requirements identified in section 35. Section 20 requires that when a premises is rented for month to month, the landlord can 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 one-month after the notice has been serviced. On examination of the notice issued and submitted into evidence (Exhibit L # 5), I find the notice was served on 29 January 2024 with a termination date of 29 February 2024. The notice issued complies with the requirements of the Act. Sections 20 and 34 identify the technical requirements of the termination notice. On examination, I find that all the criteria have been met, and the termination notice is valid. The tenant should have vacated the premises on 29 February 2024.
25. As the termination notice under section 20 of the Act, to vacate the premises on 29 February 2024 is deemed valid, the validity of the termination notice issued under section 18 to vacate the premises on 30 April 2024 will not require a determination.

Decision

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

Summary of Decision

27. The landlord's is entitled to the following:
 - An order for vacant possession of the rented premises.
 - 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.

14 May 2024

Date

Michael J. Reddy
Residential Tenancies Office