

Residential Tenancies Tribunal

Application 2024-0375-NL & 2024-0450-NL

Michael Reddy
Adjudicator

Introduction

1. Hearing was called at 1:45 PM on 4 June 2024. The hearing was to adjudicate two separate applications: 2024-0375-NL and 2024-0450-NL.
2. [REDACTED], hereinafter referred to as "landlord1", attended the hearing. [REDACTED]
[REDACTED], hereinafter referred to as "landlord2", attended the hearing.
3. [REDACTED], hereinafter referred to as "the tenant" attended the hearing.

Preliminary Matters

4. The landlords submitted an affidavit and proof of service stating that the tenant was served with the Application for Dispute Resolution electronically on 24 May 2024 at approximately 12:30 PM (**Exhibit L # 1**). The tenant did not dispute this service. In accordance with the Residential Tenancies Act, this is considered good service.
5. The tenant did not provide with her application an Affidavit of Service, and the landlords did not waive service requirements. The tenants application 2024-0375-NL was dismissed; nonetheless the matter raised will be addressed through the outcome of this hearing.
6. There is a verbal monthly rental agreement which commenced in June 2019. Rent is set at \$600.00 due on the first of each month. A security deposit of \$300.00 was paid in June 2019 and is in the landlords' possession.
7. In a proceeding under the *Residential Tenancies Act*, 2018, the applicant has the burden of proof. This means the applicant has the responsibility to prove that the outcome they are requesting should be granted. In these proceedings the standard of proof is referred to as the balance of probabilities which means the applicant has to establish that his/her account of events are more likely than not to have happened.

Issues before the Tribunal

8. The landlords are seeking the following:

- An Order of Vacant Possession

9. The landlords did not amend their application and were not seeking hearing expenses.

Legislation and Policy

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

11. Also, relevant and considered in this case are Sections 22, 34 and 35 of the *Act*.

Issue 1: Vacant Possession of the Rental Premises

Landlords Position

12. The landlords testified that they requested entry to the rental property at [REDACTED] [REDACTED] on 12 April 2024 for a general inspection on 13 April 2024 at 12:00 PM. This Notice to Enter was served personally to the tenant. Along with their application, they provided a copy of a Landlord's Notice to Enter Premises (**Exhibit L # 2**).

13. After the general inspection was completed, landlord1 testified that he electronically served the tenant a Landlord's Request for Repairs on 14 April 2024, with a request for the seven repairs to be completed by 18 April 2024. Along with their application, the landlords provided a copy of the Landlord's Request for Repairs (**Exhibit L # 3**).

14. Following the tenant being issued the Request for Repairs, the landlords personally issued the tenant, on 22 April 2024, a Landlord's Notice to Enter Premises at 7:00 PM on 23 April 2024. Landlord2 stated that this second Notice to Enter was an attempt to determine if the request for repairs had been completed by the tenant. Along with their application, the landlords provided a copy of this second Landlord's Notice to Enter Premises (**Exhibit L # 4**).

15. Landlord1 testified that on 23 April 2024, the tenant informed him the repairs had not been completed.

16. Landlord1 stated after being informed by the tenant the repairs were not completed, he personally served the tenant on 23 April 2024 a Landlord's Notice to Terminate Early-Cause under Section 22 of the *Act* with a request for the tenant to be out of the rental property by 30 April 2024 (**Exhibit L # 5**).

Tenant Position

17. The tenant did not dispute any of the testimony of the landlords. She testified there are repairs which her and her son were responsible for in the rental, but stated due to financial restraints, she was unable to complete the repairs.

Analysis

18. In accordance with Section 10(2), as follows:

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:

2. Obligation of the Tenant - The tenant shall keep the residential premises clean, and shall repair damage caused by a wilful or negligent act of the tenant or of a person whom the tenant permits on the residential premises.

19. It is the responsibility of the tenants to keep the rental premises clean and repair any damages. Should a landlord find that there is a requirement for the tenant to comply with Section 10 (2), they may give the tenant a written request and provide a reasonable time period for the repairs to be completed. Testimony and evidence were presented by the landlords demonstrating that the tenant was informed of the landlords concerns and need to repair the rental unit (**Exhibit L # 3**). The tenant did not dispute this testimony and evidence. The requested date for the repairs to be completed was 18 April 2024, with the landlords providing a follow up notice to inspect for 23 April 2024.

20. If a tenant fails to make the necessary repairs within the required time, the landlords may then give the tenant notice that the tenancy is terminated and that the tenant is required to vacate the rental unit not less than 5 days after the notice has been served. This is in accordance with Section 22 of the *Residential Tenancies Act, 2018*, as follows:

Notice where tenant's obligation not met

22. (1) Notwithstanding subsection 18(2) and paragraph 18(3)(b), where a tenant contravenes statutory condition 2 set out in subsection 10(1), the landlord may give the tenant notice requiring the tenant to comply with the condition.

(2) Where a tenant contravenes statutory condition 2 set out in subsection 10(1) within 3 days after the notice under subsection (1) has been served or within a reasonable time, 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.

(3) 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.

21. Those identified requirements have been met with this application. As well, the tenant did not dispute service of any of the Notices issued by the landlords.

Decision

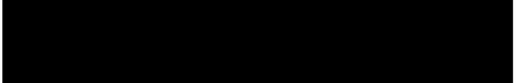
22. The landlords request for Vacant Possession succeeds.

Summary of Decision

23. The landlords shall be granted an order of vacant possession of the rental premises.
24. The tenant shall vacate the premises immediately.
25. The tenant shall pay to the landlords any costs charged to the landlords by the Office of the High Sheriff should the landlords be required to have the Sheriff enforce the attached Order of Possession.

12 July 2024

Date


Michael Reddy, Adjudicator
Residential Tenancies Office