

**SMALL CLAIMS COURT OF NOVA SCOTIA**  
ON APPEAL FROM AN ORDER OF THE  
DIRECTOR OF RESIDENTIAL TENANCIES  
Citation: *K.L. v. Universal Realty Group*, 2021 NSSM 28

**Date:** 2021-08-09  
**Docket:** SCCH 507285  
**Registry:** Halifax

Between:

K.L.

*Appellant (tenant)*

- and -

Universal Realty Group

*Respondent (landlord)*

**DECISION AND ORDER**

**Adjudicator:** Eric K. Slone

**Heard:** Via zoom on August 6, 2021 in Halifax, Nova Scotia

**Appearances:** For the Appellant,  
Nora MacIntosh, counsel

For the Respondent,  
Laurenda Sabourin, site manager

**BY THE COURT:**

[1] This is an appeal by the tenant from a decision of the Director of Residential Tenancies dated June 10, 2021, which allowed the landlord's application to terminate the tenancy at 6969 Bayers Road, Apt. (redacted) in Halifax, effective the 31<sup>st</sup> of July 2021.

[2] The basis for the application and the resulting order from Residential Tenancies

was the tenant's alleged breaches of the Statutory Condition concerning good behaviour:

**3. Good behaviour - A landlord or tenant shall conduct himself in such a manner as not to interfere with the possession or occupancy of the tenant or of the landlord and the other tenants, respectively.**

[3] There is very little dispute on the bare facts, though the tenant had important explanations to offer.

[4] This tenancy began sometime in early December 2020. The tenant is a young woman who lives alone. On the evidence, there were no issues until an event on April 24, 2021. On that occasion, the tenant was found in the lobby of the building visibly intoxicated and engaged in a loud dispute with a man who was, at the time her boyfriend. This individual became belligerent to staff who had tried to intervene, and verbally (if not physically) assaulted and threatened them. He also caused some property damage. Eventually the police were called, and the man was escorted away. Staff made contact with the tenant's family who eventually arrived to provide some care and support as the tenant was both distraught and impaired by, as it turns out, both alcohol and drugs.

[5] It was on the basis of this episode that the landlord brought its application to Residential Tenancies, which was heard on May 27, 2021. Unfortunately, there have been some incidents since then that the Residential Tenancies Officer could not have known about, and that now have to be figured into the assessment.

[6] On July 13, 2021, the tenant was seen arriving at the building with the ex-boyfriend, and it was reported to staff that there was a disturbance occurring. It is worth noting that the ex-boyfriend was legally prohibited from attending at the building by virtue of a notice under the *Protection of Property Act* as well as a peace bond. Again the police were called and he was charged with a criminal offence arising from his breach of the peace bond.

[7] One last "incident" was the subject of evidence by the landlord. On July 26, 2021, an older gentleman was apparently visiting the tenant and parked his vehicle in a handicapped spot. When questioned about his use of that spot he apparently became loud and verbally aggressive.

[8] The tenant gave evidence on her own behalf, and gave full and, I believe,

candid explanations about what was going on.

[9] The tenant admits that she has had ongoing issues with alcohol addiction. She also admitted to occasional drug use. Her now ex-boyfriend has a significant drug habit, and has been abusive to her - particularly when intoxicated.

[10] The tenant has been receiving counselling for her alcohol dependence for several years, and she claims now to be mostly not drinking or taking any drugs. This change in her behaviour has been brought about, at least in part, by the fact that she recently found out that she is pregnant.

[11] The tenant says she broke off her relationship with the ex-boyfriend after the April 24 incident, although she did not cut off all contact with him. She says that she got together with him on July 13, 2021 in order to inform him of her pregnancy and to encourage him to clean up his act if he wanted to have any role in his future child's life. As we now know, that meeting did not go well and the tenant says that she has had no contact with him except for seeing him at a court date where she was subpoenaed to testify against him on the charges arising from his breach of the peace bond.

[12] The so-called incident of July 26, 2021 was explained by the tenant. The gentleman who arrived and apparently parked in the handicapped spot was her grandfather who had come over to witness some documents that she had to sign for a new job that she will be starting next month. She was not aware that there had been a disturbance reported.

[13] The tenant believes she has her life under better control. She says the pregnancy has inspired her to stop drinking and she looks forward to starting her new job as a nurse's aide. She does not want to have to leave this apartment.

[14] It is worth noting that there have been no issues concerning her payment of rent.

### **Putting the facts into context**

[15] On the face of it, the most serious "bad behaviour" was committed by the tenant's ex-boyfriend, and not the tenant herself. It was he who was loud and aggressive and who presented a threat to staff. It was he who committed some property damage in response to being asked to leave the premises.

[16] The tenant herself can be held at least partially responsible for the incidents. It was she who invited him on the premises, at least twice. She was seriously impaired on the day of the April 24 incident, and her own behaviour was both concerning and disturbing, though not threatening, in itself.

[17] I believe the tenant showed extremely poor judgment in allowing her ex-boyfriend to visit her on July 13, 2021, knowing that he was not supposed to be at the premises. That lapse in judgment was arguably her worst mistake.

[18] I give no weight to the “incident” involving the tenant’s grandfather, which was probably nothing more than a few angry words exchanged, that no one who testified could speak to first hand.

[19] The tenant appears sincere in her desire to stay clean and healthy, and in my view she presents no risk to the landlord or the other tenants in her building so long as she stays sober and remains clear of what is apparently a very unhealthy relationship with the ex-boyfriend.

[20] The Residential Tenancies Officer asked himself the pivotal question whether the behaviour of the tenant was serious enough to warrant ending the lease. He did not, however, explain his conclusion that it was. He acknowledged that the tenant had addiction issues and was a victim of abuse, but did not appear to give those factors much weight. Specifically, he did not appear to ask himself whether the tenant’s addiction issues amounted to a legal disability that deserved some reasonable accommodation, in the human rights sense of the word.

[21] Reasonable people may differ in their assessment on a question such as this. On the whole, I must respectfully differ with the Residential Tenancies Officer.

[22] In my view, the “bad behaviour” of the tenant herself does not reach the threshold for saying that she has forfeited her right to continue with this lease. It seems quite likely that her addiction to alcohol played a large part in the incidents complained of. We must not lose sight of the fact that alcoholism and addiction are illnesses, and that landlords (and others) are prohibited by human rights laws from discriminating against people with such disabilities. Within reason, allowances need to be made for people whose disabilities cause them to do things that might otherwise dis-entitle them to rights and privileges.

[23] I have had occasion in previous cases to consider the issue of bad behaviour through a human rights lens.

[24] In *Atlantic Living Property Management v. Watkins*, 2013 NSSM 13 (CanLII), the landlord attempted to evict the tenant for a long list of incidents and antisocial behaviours. I found that the tenant was likely suffering from mental health challenges and I emphasized the need for a degree of accommodation:

15 The Tenant did not elaborate at great length on her disabilities, and there may well be more to it than meets the eye. I have little doubt that she is a challenging person as a tenant and neighbour. But people with disabilities have a right to be accommodated, and it would be a mistake to simply label her as antisocial and in breach of her obligations as a tenant, without a much deeper inquiry into whether or not her behaviours are, in whole or in part, the function of some disabling conditions. ....

[25] I did not terminate the tenancy, but put the tenant on notice that her behaviour might land her in trouble if it persisted:

30 In the end, I do not find any significant reasons to terminate this tenancy. I repeat my earlier statements to the effect that this Tenant appears to be somewhat of a challenge. Some of her behaviours are clearly inappropriate, and if continued risk precipitating further actions by the Landlord. She may well have escaped any serious consequence this time, but she should be clearly on notice of what is considered acceptable and what is not acceptable behaviour for a tenant.

31 On the other side of the equation, the Landlord is going to have to work with the Tenant in a way that accommodates any particular problems that arise out of her multiple disabilities. Both parties should be clear that accommodation is a two-way street, and the Tenant should be clear about those areas where she may need some leniency from the Landlord, at the risk of being treated more harshly.

[26] More recently, in *Lindsay v. Metropolitan Regional Housing Authority*, 2019 NSSM 61 (CanLII) I framed the question in terms of whether or not it would work an unreasonable hardship on the landlord to have to accommodate the tenant and his obvious disabilities:

[54] The *Human Rights Act* in s.5 (1) (b) and (o) prohibits discrimination by

landlords in the provision of “accommodation” (i.e. housing) on the basis of “physical or mental disability.” In the Human Rights sphere generally, as exemplified by the seminal Supreme Court of Canada case *British Columbia (Public Service Employee Relations Commission) v. BCGSEU*, 1999 CanLII 652 (SCC), [1999] 3 SCR 3 (known colloquially as the Meiorin case), the obligation not to discriminate is not absolute but is to be balanced against the extent to which accommodating the disability (or other distinction) would create unreasonable hardship.

[55] In the situation here, assuming for the moment that the allegations against the Tenant are as a result of his disability, and to consider evicting him for those reasons, the question for the court is whether it would be an unreasonable hardship for the Landlord to continue to accommodate the Tenant’s disabilities and provide housing for him.

[27] In that case, I concluded that the tenant was unlikely ever to behave in a way that the landlord could accommodate, and I upheld the termination.

[28] Here, I conclude otherwise. The landlord here is a large one that has the resources to deal with tenants who present challenges. I believe that the tenant is entitled, at least, to a “last chance” to demonstrate to the landlord that she can meet her obligation of good behaviour as a tenant. While I doubt that I have the legal authority to craft a true “last chance agreement,” I believe it is appropriate and sufficient to say that the tenant has come very close to forfeiting her right to continue this tenancy, and that should she exhibit disruptive behaviour in the future, any Residential Tenancies Officer or Small Claims adjudicator considering an application to terminate the tenancy may take into account that she came very close to being evicted this time and may not be entitled to the benefit of the doubt next time around.

[29] Of course, we all hope that no such incidents present themselves, and any future incidents would have to be considered on their own merits.

[30] In the result, the Order of the Director of Residential Tenancies is quashed and the landlord’s application to terminate the tenancy is dismissed.

**Eric K. Slone, Adjudicator**