

SMALL CLAIMS COURT OF NOVA SCOTIA

Citation: *Johnston v. Workman*, 2022 NSSM 56

ON APPEAL FROM AN ORDER OF THE
DIRECTOR OF RESIDENTIAL TENANCIES

Date: 20221031

Docket: SCCH 517596

Registry: Halifax

Between:

Jasmine Johnston

Appellant (tenant)

- and -

Kari Workman (Metropolitan Regional Housing Association)

Respondent (landlord)

REASONS FOR DECISION AND ORDER

Adjudicator: Eric K. Slone

Heard: via zoom in Halifax, Nova Scotia on October 28, 2022

Appearances: For the Appellant,
self-represented

For the Respondent,
Kari Workman, property manager

BY THE COURT:

[1] This is an appeal by the tenant from a decision of the Director of Residential Tenancies dated August 29, 2022. That decision granted the landlord vacant possession of the tenant's apartment at 2313 Gottingen Street in Halifax as of September 15, 2022. The tenant did not attend the hearing at Residential Tenancies, which is not uncommon. She claims that she was not notified of same, though proof of service is in the file. In the end it does not matter, since this is a hearing *de novo*, but it is significant that the tenant did not have her side of the story heard at Residential Tenancies.

[2] The decision of the Residential Tenancies Officer, based solely on the landlord's evidence, was that the tenant had been disruptive, interfering with the quiet enjoyment of other tenants, and that she was improperly allowing her boyfriend to live in the unit contrary to regulations.

[3] The building in question is owned and operated by Metropolitan Regional Housing Association (MRHA). It contains public housing, with some units having rents geared to incomes. The tenant pays the very modest sum of \$175.00 per month, which is a fraction of what apartments cost on the open market. There is high demand for these subsidized units.

[4] It is well known that MRHA does not lightly give up on its tenants, and clearly the tenant here has tested the landlord's patience.

[5] At the hearing on October 28, 2022, I heard the evidence of both the tenant and her boyfriend, Jeremy McKay. I also heard from property manager Ms. Workman.

[6] The tenant is 23 years old. She and Mr. McKay have a 2-year old child together. That child is under the control of Child Protection Services, and the tenant has limited access time with her. I am not sure whether the same applies to Mr. McKay.

[7] The tenant says, and I accept, that this is her first apartment since leaving home. She wants to stay in this apartment, and appears to have hopes of regaining custody, or at least more generous access time with her child.

[8] The tenancy has been somewhat troubled since it began in August 2021. There have been multiple noise complaints. The tenant herself was the victim of an assault in the building, which has sparked a criminal charge against the other

person. She suffers from severe anxiety and is on medication for it.

[9] Mr. McKay became unwelcome in the building when he ripped out either a smoke alarm or intercom that was beeping in the apartment. It also came to the landlord's attention that he was spending a great deal of time in the apartment and described himself to outsiders as a resident of the building. This, if true, put the tenant in breach of the rule that forbids residents who are not on the lease. If he were on the lease, which I do not think is an option, the rent would be geared to both their incomes, not just hers.

[10] At the end of May 2022 the landlord served Mr. McKay with a notice under the *Protection of Property Act* forbidding him from entering the premises. He says that he has respected that notice. Ms. Workman has information that suggests otherwise, but her evidence was second-hand hearsay and lacks reliability.

[11] The tenant acknowledges that she is sometimes over-exuberant when playing video games, and she admits that she could probably reduce the noise that such activity causes.

[12] In cases such as this, the court has a great deal of discretion. Does the proven behaviour of the tenant reach the threshold where she loses this subsidized housing? Should she pay such a high price for her inexperience and dubious choices?

[13] I find that the landlord has come very close to making out a case, but has fallen slightly short. The tenant should breathe a sigh of relief that she is getting a second chance. The next time she may not be so lucky.

[14] The tenant needs to change her attitude and try to reduce the amount of drama that she inflicts on others in the building. She needs to be more respectful of other tenants' rights. She needs to respect the fact that Mr. McKay is currently barred from the building. She needs to respect all of the rules of the tenancy.

[15] The tenant also should be aware that making accusations of racial bias against the landlord and its agents only contributes to the conflict. Based on the evidence before me, nothing that the landlord has done in this case appears to have been racially motivated.

[16] In the result, with some lingering concerns about the future of this tenancy, I am allowing this appeal and setting aside the order of the Director of Residential Tenancies.

ORDER

[17] This court orders that the Order of the Director of Residential Tenancies dated August 29, 2022 is set aside.

Eric K. Slone, Adjudicator