



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: c/o Dore Property Management v Bellehumeur, 2023 ONLTB 80161

Date: 2024-01-12

File Number: LTB-L-075370-22

In the matter of: 3, 311 SAVARD AVE
OTTAWA ON K1L7S1

Between: Arshad and Kausar Saeed c/o Dore Property Management Landlord

And

Christian Bellehumeur

Tenant

Arshad and Kausar Saeed c/o Dore Property Management
true copy of an Order dated
JAN 12, 2024
Justin Leung
Landlord and Tenant Board

Arshad and Kausar Saeed c/o Dore Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Christian Bellehumeur (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on November 30, 2023.

The Landlord's Agent, Martin Guathier, the Landlord's Legal Representative, Anne Skelly and the Landlord's Witness, Matthew Denny ('MD'), attended the hearing.

As of 9:36 am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. On November 7, 2022, the Landlord served the Tenant with an N5 Notice alleging that the Tenant substantially interfered with another tenant's or the Landlord's reasonable enjoyment of the residential complex and/or lawful rights, privileges, or interests by engaging in loud swearing, screaming and banging from within their unit.
2. In the N5 Notice, the Landlord alleges that the Tenant has been substantially interfering with the reasonable enjoyment of the residential complex for another Tenant as a result of the following incidents:
 - October 8, 2022, 4:00 p.m. – loud swearing, screaming and banging coming from the rental unit

- October 8, 2022, 6:00 p.m. – loud swearing and screaming coming from the rental unit
 - November 4, 2022, 3:40 p.m. – Landlord received a written complaint outlining ongoing excessive noise and disturbances coming from the rental unit
3. MD appeared as a witness for the Landlord. MD testified that he lives in the rental unit directly above the Tenant's unit. He described a pattern of behaviour beginning in October 2022 that consists of screaming coming from the Tenant's unit. These screaming and yelling is daily and has been persistent since October 2022.
 4. MD testified that he has spoken with the Tenant who acknowledged the issue but did not take action to correct it. MD stated that he maintains a written log which details the Tenant's conduct of abusive verbal language on an almost daily basis. The log included dates from November 8 to 21, 2022 with varying times from 5:52 am to 6:35 pm. Accompanying this log are video recordings from MD for October 8, November 2 and November 21, 2022 which provide an audio-visual perspective to these issues.
 5. Based on the uncontested evidence before us, we are satisfied that the Tenant has yelled, screamed profanities, and created excessive noise in the rental unit and that this behaviour has impacted another tenant's ability to reasonably enjoy their own home. We find that this conduct constitutes a substantial interference with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.
 6. Subsection 64(3) of the *Residential Tenancies Act, 2006* states that a tenant can void an N5 Notice by stopping the activities or correcting the described behaviour within seven days of being served with notice. In this case, the seven-day voiding period began on November 8, 2022 and ended on November 14, 2022.
 7. It was the Landlord's uncontested evidence that the Tenant's disruptive behaviour has continued, unabated, since the N5 Notice was served. The Tenant's behaviour has escalated requiring police and by-law intervention. Accordingly, we find the Tenant did not void the N5 Notice.

Section 83

8. We have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Residential Tenancies Act, 2006 (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
9. The Landlord has attempted to work with the Tenant but there has not been a reasonable change in his behaviour and has persisted for 13 months. The Tenant's failure to mitigate noise and interruptions emanating from their unit has negatively impacted other tenants.

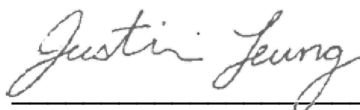
Daily compensation

10. The Landlord claimed compensation for each day the Tenant remained in the unit after the termination date in the notice of termination, or December 5, 2022.
11. Based on a monthly rent is \$537.82, the daily compensation is \$17.68.
12. The Landlord is directed to apply any rent paid by the Tenant to the amount ordered below.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 23, 2024.
2. If the unit is not vacated on or before January 23, 2024, then starting January 24, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after January 24, 2024.
4. The Tenant shall pay to the Landlord \$6,364.48, which represents compensation for the use of the unit from December 5, 2022 to November 30, 2023.
5. The Tenant shall also pay the Landlord compensation of \$17.68 per day for the use of the unit starting December 1, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The Landlord owes \$603.34 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
8. The total amount the Tenant owes the Landlord is \$5,947.14.
9. The Landlord shall apply any rent paid by the Tenant between December 5, 2022 and the date the Tenant moves out of the unit to the amount owing under paragraph 8.
10. If the Tenant does not pay the Landlord the full amount owing on or before January 23, 2024, the Tenant will start to owe interest. This will be simple interest calculated from January 24, 2024 at 7.00% annually on the balance outstanding.

January 12, 2024
Date Issued



Justin Leung
Member, Landlord and Tenant Board

Dawn Sullivan

Dawn Sullivan

Vice Chair, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on June 27, 2024 if the order has not been filed on or before this date with the Court Enforcement Office (Sheriff) that has territorial jurisdiction where the rental unit is located.