

Order under Section 69
Residential Tenancies Act, 2006

File Number: NOL-43431-21

In the matter of: MAIN FLOOR UNIT, 364 ELLIOTT STREET
HAILEYBURY ON P0J1K0

Between: Deftac Systems Inc.

and

Megan Arthurs
Travis Fougere

I hereby certify this is a
true copy of an Order dated

FEB 3, 2022

TR

Landlord and Tenant Board

Landlord

Tenants

Deftac Systems Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Travis Fougere and Megan Arthurs (the 'Tenants') because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused undue damage to the premises.

This application was heard by videoconference on October 25, 2021 at 10:38am.

Only the Landlord's agents, Darcy Griffith and Kelly Griffith, attended the hearing.

Determinations:

1. By way of background, this is a month-to-month tenancy in which rent is due on the first of the month in the amount of \$693.94. This tenancy began on October 1, 2018. The residential complex is a duplex where the Tenants reside on the main floor.
2. As of the hearing date, the Tenants remain in possession of the rental unit.
3. The Landlord's L2 application is based on a second N5 notice of termination served to the Tenants on July 18, 2021 by mail with a termination date of August 18, 2021 pursuant to subsection 68(1) of the *Residential Tenancies Act, 2006*.
4. In order to serve a second N5, the Landlord must have served a valid first N5 notice of termination. The Landlord's evidence was the first N5 was served to the Tenants on May 8, 2021 by mail with a termination date of June 7, 2021 pursuant to subsection 62(1) of the Act.
5. The damages identified on the first N5 are also found on the second N5, along with new damages to the rental unit. As such, I restricted the Landlord's evidence to only those damages that occurred after the remedy period (May 13-20, 2021) that were outlined on the second N5 notice of termination which include the following: a broken kitchen window

frame, removal of the smoke detector in the living room and back bedroom, and door trim around front hall closet broken.

TERMINATION OF THE TENANCY FOR DAMAGE

6. The Landlord's uncontested evidence was that on July 18, 2021 at 3:00pm, the Landlord attended the premises to conduct an inspection of the rental unit to find more damage to the rental unit than what was discovered on the first N5 after the inspection took place on May 7, 2021.
7. The window in the kitchen was broken; the window screens had holes in them; and the window frame was broken as well. With respect to the smoke detectors, after the first N5 was served, the Landlord testified that he went to the rental unit to fix this issue and installed a new smoke detector in the living room. On July 18, 2021, he discovered that this smoke detector had been removed once again as well as the smoke detector by the back bedroom.
8. With respect to the door trim around the front hall closet, the Landlord submitted a photograph showing that the doors had been removed from the closet. The damage to the door trim appears to be consistent with the negligent removal of the doors.
9. The Landlord testified that he asked the Tenants about the damaged property, but the Tenants denied causing any damage or being responsible for the damage. As such, the Landlord seeks a termination of the tenancy and reimbursement of the application filing fee.

ANALYSIS

10. Based on the Landlord's uncontested evidence, I am satisfied that the Tenants have willfully and negligently caused undue damage to the rental unit's window screen in the kitchen, smoke detectors and door trim by the front hall closet. I say this based on the Landlord's evidence and the photograph submitted. The Tenant knew or ought to have known that by removing closet doors, damage would occur to either its door, frame or trim; and that by disconnected the smoke detectors, damage could occur to the wiring, impeding the ability for its reconnection.
11. I 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. The Landlord is unaware of any circumstances that would justify relief from eviction.
12. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated, as of August 18, 2021. The Tenants must move out of the rental unit on or before February 14, 2022.

2. If the unit is not vacated on or before February 14, 2022, then starting February 15, 2022, 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 February 15, 2022.



February 3, 2022
Date Issued

Sonia Anwar-Ali
Member, Landlord and Tenant Board

Northern-RO
199 Larch Street, Provincial Building, Suite 301
Sudbury ON P3E5P9

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