



Order under Section 78(6) Residential Tenancies Act, 2006

Citation: HASTINGS GROUP INC. v Cross, 2024 ONLTB 1303

Date: 2024-01-05

File Number: LTB-L-083340-23

In the matter of: 2, 59 NORTH MURRAY ST
TRENTON ON K8V2E5

Between: HASTINGS GROUP INC.

And

Tishshaniya Cross
Shane Chard

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

JAN 05, 2024

Landlord and Tenant Board

Landlord

Tenants

HASTINGS GROUP INC. (the 'Landlord') applied for an order to terminate the tenancy and evict Tishshaniya Cross and Shane Chard (the 'Tenants') because the Tenants failed to meet a condition specified in the order issued by the Board on July 7, 2023 with respect to application LTB-L-015620-23.

A hearing was held by videoconference on December 14, 2023 to consider this application. The Landlord's agent Jennifer Correia and legal representative Lorrie Mccullough and the Tenants attended the hearing.

Determinations:

1. The order provides that the Landlord can apply to the LTB under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenants to terminate the tenancy and evict the Tenants if the Tenants do not meet certain conditions in the order.
2. The prior order requires the Tenants, their occupants and/or guests to refrain from using, buying, trafficking and/or producing illegal drugs within the rental unit and/or residential complex.
3. The Landlord's L4 application was filed on October 22, 2023 and alleges that on October 18, 2023 the Tenant, Tishshaniya Cross and her guests purchased, used and produced an illegal drug in the parking lot of the residential complex.

Evidence:

4. The Landlord's agent Jennifer Correia provided oral testimony at the hearing. The Landlord entered into evidence video footage from their security cameras taken from the front entrance of the residential building. The video evidence shows the Tenant in a silver Ford SUV with a guest from approximately 12:43am to approximately 2:48am on October 18, 2023.

5. In the videos the Tenant and their guest can be seen smoking out of a glass pipe and preparing the substance to smoke on the center console of the vehicle with baking soda and a stirring device. The videos also show that at approximately 1:58am a white vehicle parks beside the Tenant and her guest. The Tenants guest exits the vehicle and goes over to talk to the driver of the white vehicle. From approximately 2:02am to 2:05am the Tenant's guest can be seen going back and forth between two vehicles with cash in her hand and making multiple hand to hand transactions and/or exchanges with the occupants of the white vehicle. At approximately 2:08am, the Tenant's guest returns to the silver SUV when she and the Tenant continue to prepare a substance on the centre console of the vehicle.
6. The Landlord's agent believes that the Tenant and her guest, purchased powdered cocaine and produced and smoked crack cocaine in their vehicle.
7. The Tenant disputed that she was in possession of or smoked an illegal drug. The Tenant testified that her 30-year-old daughter had recently passed away and that she and her friend were only smoking cannabis and discussing the recent passing.
8. When asked on cross examination what the Tenant and her guest were doing on the centre console of the vehicle, the Tenant responded by stating that she and her friend were doing makeup. The Tenant also could not recall having baking soda in the vehicle or using it to mix any substance. When asked about the white vehicle who approached and had an interaction with her guest, the Tenant responded by stating that her friend owed this individual rent money, that she did not recall any hand-to-hand transactions and that she wasn't fully paying attention.

Analysis:

9. Based on the evidence before the Board, I am satisfied on a balance of probabilities that the Tenant, Tishshaniya Cross and a guest of the Tenant used, produced and engaged in trafficking of an illegal substance within the residential complex. Therefore, I find that the Tenants have failed to meet a condition in and/or breached the prior order.
10. The video evidence submitted by the Landlord clearly shows the Tenant and their guest smoking out of a glass pipe in their vehicle, and preparing a substance on the centre console of the vehicle by applying baking soda and stirring the ingredients. The video evidence also suggests that the trafficking of an illegal drug occurred in the parking lot involving the Tenant's guest. The video footage shows another vehicle pull into the parking lot and park for less 10 minutes beside the Tenant and her guest. During this short period the Tenants guest can be seen grabbing cash from her vehicle and handing it to the driver of the other vehicle. Shortly after the cash transaction was made, another hand-to-hand transaction took place between the Tenant's guest and the unnamed individuals.
11. I do not accept the Tenants position that she and her guest were only smoking cannabis and/or that she was unaware of the drug trafficking going on. The video evidence clearly shows the Tenant and her guest heating up the glass pipe prior to inhaling the substance inside of it, something that is not required to do when smoking cannabis. Further prior to smoking from the glass pipe, both the Tenant and her guest appear to be mixing baking soda and the contents of the substance prior to placing it inside the glass pipe, which

again is not something that is required when smoking cannabis. The video evidence also confirms that the Tenant was fully aware of the interaction between her guest and the unknown individuals who arrived and participated in the drug transaction. The Tenant can be seen looking over at the unknown vehicle and communicating with her guest throughout the video.

Relief from eviction:

12. 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 not be unfair to postpone the eviction until January 31, 2024 pursuant to subsection 83(1)(b) of the Act.
13. Based on the evidence before the Board, I find that it would be unfair to grant relief from eviction. The rental unit is located in a multi-residential complex consisting of many residents. The breach alleged and proven on a balance of probabilities is serious and I find that the well-being of the community as a whole and the tenants in that community takes precedence over the right of the Tenants, as a sole household to ask for relief from forfeiture in the circumstances. This is consistent with the decision in *Joseph v. Toronto Community Housing Corporation, 2013 ONSC 413*.
14. Further the breach stems from an order issued by the Board on consent of the parties. Under the Act, the general intention is that the Board has an obligation to uphold and enforce the agreements into which landlords and tenants enter. If it does not do so, then there is little incentive for parties to attempt negotiation. Board orders and mediated agreements are not mere suggestions with respect to conduct, but legally binding orders. If the Board does not uphold and enforce its own orders, disrespect for the Board's processes will inevitably ensue. I find that imposing yet another conditional order would only result in another breach and prejudice the Landlord further.
15. I am however mindful to the fact that the Tenants have resided in the rental unit for approximately 8 years and reside in the rental unit with their two children. The Tenants have also recently experienced the passing of their oldest child and as such, have experienced a difficult period in their life. As such, I find that it would not be unfair to delay termination to January 31, 2024 to allow the Tenants some additional time to secure alternate housing.

It is ordered that:

1. Order LTB-L-015620-23 is cancelled.
2. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 31, 2024.
3. If the unit is not vacated on or before January 31, 2024, then starting February 1, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. 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 1, 2024.

January 5, 2024

Date Issued



Fabio Quattrociochi

Member, 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 August 1, 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.