



Order under Section 69
Residential Tenancies Act, 2006

File Number: TSL-87547-17

In the matter of: 2703, 2175 LAKESHORE BOULEVARD WEST
TORONTO ON M8V1A1

I hereby certify this is a true copy of the Order
(Name of Document)

Between: Eric Lau

(Signature of Staff Member)

Landlord

and

OCT 16 2017

Melissa Skinner

Landlord and Tenant Board

Tenant

Eric Lau (the 'Landlord') applied for an order to terminate the tenancy and evict Melissa Skinner (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 application).

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant; and 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 (L2 application). The Landlord has also applied for an order requiring the Tenant to compensate the Landlord for the damage.

This application was heard in Toronto on September 28, 2017.

Only the Landlord, and Landlord's representative, Brett Lockwood, attended the hearing.

Determinations:

L1 application:

1. The Tenant has not paid the total rent the Tenant was required to pay for the period from January 16, 2017 to October 15, 2017. Because of the arrears, the Landlord served a Notice of Termination effective July 27, 2017.
2. The Tenant is in possession of the unit.
3. The monthly rent as of the date of the hearing is \$2,200.00.
4. The Tenant paid \$1,559.00 after the application was filed.
5. The Landlord collected a rent deposit of \$2,000.00 from the Tenant and this deposit is still being held by the Landlord.
6. Interest on the rent deposit is owing to the Tenant for the period from November 26, 2016 to July 27, 2017.

7. 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.

L2 application: Form N5

8. At the hearing, the Landlord requested the consent of the Board to withdraw the application based on the Form N5.
9. In accordance with subsection 200(4) of the Act, I consent to the withdrawal of the application.

L2 application for Damages:

10. The rental unit is located in a condominium building.
11. Subsection 89(1) of the Act states:

A landlord may apply to the Board for an order requiring a tenant to pay reasonable costs that the landlord has incurred or will incur for the repair of or, where repairing is not reasonable, the replacement of damaged property, if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex wilfully or negligently causes undue damage to the rental unit or the residential complex and the tenant is in possession of the rental unit.

12. To be successful on a claim for damages the Landlord must prove on a balance of probabilities that the damage claimed is "undue". There is no definition in the Act of "undue", but it is fair to say that it means "out of the ordinary" or "not wear and tear caused by ordinary usage." The Landlord must also establish that the Tenant, an occupant or a guest either wilfully or negligently caused the damage. If the Landlord establishes undue damage which was caused wilfully or negligently then the Landlord must lead sufficient evidence to show what the reasonable cost of repair is.
13. The Tenant's guest wilfully caused undue damage to the residential property by urinating on the wall of the parking garage. The Landlord claimed the total amount of \$861.63 for the clean-up costs.
14. The Landlord did not provide sufficient evidence to establish that the cost to clean-up the damaged property total \$861.63. I note the amount includes legal fees for the condominium corporation. The Landlord could have obtained quotes from a cleaning company specializing in condominium buildings to ascertain the actual cost for the clean-up. As such, I will award a nominal amount of \$75.00, for the clean-up of the property.

It is ordered that:

1. Unless the Tenant voids the order as set out below, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before October 27, 2017.

2. The Tenant shall pay to the Landlord \$5,447.54*, which represents the amount of rent owing and compensation up to October 16, 2017, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$72.33 per day for compensation for the use of the unit starting October 17, 2017 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlord \$190.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing* on or before October 27, 2017, the Tenant will start to owe interest. This will be simple interest calculated from October 28, 2017 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before October 27, 2017, then starting October 28, 2017, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 October 28, 2017.
8. If, on or before October 27, 2017, the Tenant pays the amount of \$9,731.00** to the Landlord or to the Board in trust, this order for eviction will be void. This means that the tenancy would not be terminated and the Tenant could remain in the unit. If this payment is not made in full and on time, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
9. The Tenant may make a motion to the Board under subsection 74(11) of the Act to set aside this order if they pay the amount required under that subsection on or after October 28, 2017 but before the Sheriff gives vacant possession to the Landlord. The Tenant is only entitled to make this motion once during the period of the tenancy agreement with the Landlord.
10. The Landlord's L2 application based on the Form N5 is dismissed.
11. The Tenant shall pay to the Landlord the amount of \$75.00, which represents the cost to clean- up the damaged property.
12. The Tenant shall pay \$75.00 to the Landlord on or before October 27, 2017.
13. If the Tenant does not pay the amount of \$75.00 on or before October 27, 2017, the Tenant will start to owe interest. This will be simple interest calculated from October 28, 2017 at 2.00% annually on the balance outstanding.

October 16, 2017
Date Issued


Debbie Mosaheb
Member, Landlord and Tenant Board

Toronto South-RO
79 St. Clair Avenue East, Suite 212, 2nd Floor
Toronto ON M4T1M6

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 expires on April 28, 2018 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.

- * Refer to section A on the attached Summary of Calculations.
- ** Refer to section B on the attached Summary of Calculations.

**Schedule 1
SUMMARY OF CALCULATIONS**

File Number: TSL-87547-17

A. Amount the Tenant must pay if the tenancy is terminated:

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	January 16, 2017 to July 27, 2017	\$3,167.95
Less the amount the Tenant paid to the Landlord		-\$1,559.00
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	July 28, 2017 to October 16, 2017	\$5,858.73
Less the rent deposit:		-\$2,000.00
Less the interest owing on the rent deposit:	November 26, 2016 to July 27, 2017	-\$20.14
Amount owing to the Landlord on the order date: (total of previous boxes)		\$5,447.54
Additional costs the Tenant must pay to the Landlord:		\$190.00
Plus daily compensation owing for each day of occupation starting October 17, 2017:		\$72.33 (per day)
Total the Tenant must pay the Landlord if the tenancy is terminated:		\$5,637.54, + \$72.33 per day starting October 17, 2017

B. Amount the Tenant must pay to void the eviction order and continue the tenancy:

Reasons for amount owing	Period	Amount
Arrears:	January 16, 2017 to November 15, 2017	\$11,100.00
Less the amount the Tenant paid to the Landlord		-\$1,559.00
Additional costs the Tenant must pay to the Landlord:		\$190.00
Total the Tenant must pay to continue the tenancy:	On or before October 27, 2017	\$9,731.00