



Order under Section 69
Residential Tenancies Act, 2006

File Number: CEL-03667-21

In the matter of: 252 HUTCHINSON DRIVE
ALLISTON, NEW TECUMSETH ON L9R1V2

Between: Marco Khalil

and

Annica Smith

**I hereby certify this is a
true copy of an Order dated**
January 17, 2022
LC
Landlord and Tenant Board

Landlord

Tenant

Marco Khalil (the 'Landlord') applied for an order to terminate the tenancy and evict Annica Smith (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (**the 'L1 application'**). The Landlord also claimed administration charges related to NSF cheques.

The Landlord also applied for an order to terminate the tenancy and evict the Tenant 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 and 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 'L2/N5 application'**). The Landlord has also applied for an order requiring the Tenant to compensate the Landlord for the damage (**the 'damage claim'**).

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Landlord requires possession of the rental unit for the purpose of residential occupation (**the 'L2/N12 application'**).

The Landlord has also applied for an order requiring the Tenant to compensation the Landlord unpaid utilities costs (**the 'utilities claim'**).

This application was heard via video conference on January 6, 2022.

Only the Landlord and the Landlord's legal representative, Yasmin Van Maurik, attended the hearing.

Determinations:

The L1 Application

1. The Tenant vacated the rental unit on January 1, 2022.

2. The Tenant has not paid the total rent the Tenant was required to pay for the period from August 1, 2021 to January 1, 2022.
3. The Landlord incurred charges of \$60.00 for administration charges related to cheques tendered by or on behalf of the Tenant, which were returned NSF.
4. The Landlord collected a rent deposit of \$2,550.00 from the Tenant and this deposit is still being held by the Landlord.
5. Interest on the rent deposit is owing to the Tenant for the period from December 22, 2020 to September 26, 2021, in the amount of \$1.95.
6. The Tenant paid \$2,550.00 after the application was filed.
7. As the Tenant has vacated the rental unit, the Landlord is only seeking an order for the outstanding arrears. An order will issue accordingly.

The Applications That Are Moot

8. As the Tenant has vacated the rental unit, the L2/N12 application is now moot and the L2/N5 application is moot. The only remaining issues on the Landlord's application is the damage claim and the claim for unpaid utilities.

The Damage Claim

9. The Landlord's Application includes these four damage claims:
 - a) Damage to the main floor carpet which was fouled by the Tenant's dog,
 - b) Damage to the kitchen counter,
 - c) Damage to the main entrance, and
 - d) Flooring and drywall damage caused by flooding in the basement
10. The claim for any damage to the carpet was withdrawn by the Landlord at the hearing. For this reason, this portion of the Landlord's application is denied.
11. The Landlord presented photographs of what was alleged to be damage to the kitchen counter located on the main floor of the rental unit. The evidence presented was not compelling enough to suggest that any damage had occurred to the kitchen counter outside of normal wear-and-tear. For these reasons, this portion of the Landlord's application is dismissed.
12. Regarding the damage allegedly caused to the rental unit entrance, while the Landlord did submit a picture of the doorway which showed some minor scratches, this does not constitute undue damage as required by the *Residential Tenancies Act, 2006* (the 'Act'). For this reason, this portion of the Landlord's application is dismissed.

13. The Landlord claims that there was significant flood in the basement area of the rental unit. The Landlord said that the laminate flooring in the basement was so damaged by the flood that he removed a large area of flooring and he will have to replace all of the flooring in the basement. In support of his testimony, the Landlord provided photos of the area of concrete basement flooring where he says he needed to remove the laminate slats. The Landlord also provided pictures of the baseboards in the basement and other areas of concrete flooring in the basement.
14. Although the outline of the removed laminate pieces can be seen on the concrete floor, these pictures do not show any damage to the concrete floor at all. The Landlord failed to provide any pictures of the laminate pieces which he says were damaged by water. We would also note that the Landlord was unable to provide a reasonable explanation for failing to provide pictures of the damage to the laminate flooring, even though this area of damage was the focus of his application.
15. Also, although there appears to be a small amount of discolouration on the baseboards in the basement, and there is a small area of sitting water on the concrete floor underneath the laundry room sink, none of the basement pictures confirm that undue damage was caused in any part of the basement due to an alleged flood. In fact, none of the Landlord's pictures confirm the Landlord's testimony that a significant flood occurred. At most, there appears to have been small area of water at some point in the basement, but we are not satisfied that this caused undue damage to any part of the basement. For these reasons, and based on the evidence before us, we are not satisfied on the balance of probabilities that the Tenant wilfully or negligently caused undue damage to the rental unit and this portion of the Landlord's application must be dismissed.

The Utilities Claim

16. The Landlord claims that the Tenant has not paid the utilities that were required to be paid as according to the lease agreement. In support of his testimony, the Landlord provided the Board with copies of several utility bills which appear to be unpaid.
17. According to the Landlord's documentary evidence, the Tenant currently owes the following utility costs:
 - a) \$566.54 for Enbridge Gas from May 14, 2021 to Nov. 30, 2021
 - b) \$424.24 for New Tecumseth Water from April 24, 2021 to Oct. 31, 2021.
18. The Landlord is seeking a total of \$990.78 in unpaid utilities.
19. The Residential Tenancies Act section 88.1 states:

A landlord may apply to the Board for an order requiring a tenant or former tenant to pay costs described in subsection (4) if,

(a) while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant failed to pay utility costs that they were required to pay under the terms of the tenancy agreement

20. Based on all of the evidence before us, we are satisfied on the balance of probabilities that the Tenant failed to pay the utility costs he was required to pay and this portion of the Landlord's application should be granted.
21. This order contains all the reasons within it and no further reasons will be issued.


It is ordered that:

1. The tenancy between the Landlord and the Tenant was terminated on January 1, 2022.
2. The Tenant shall pay to the Landlord \$7,820.26*, which represents the amount of rent owing and compensation up to January 1, 2022, and the total charges related to NSF cheques tendered to the Landlord by or on behalf of the Tenant, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The tenant shall pay to the Landlord \$990.78 for the unpaid utilities claimed by the Landlord.
4. The Tenant shall also pay to the Landlord \$201.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing* on or before January 28, 2022, the Tenant will start to owe interest. This will be simple interest calculated from January 29, 2022 at 2.00% annually on the balance outstanding.

January 17, 2022
Date Issued



Laura Hartsliel
Member, Landlord and Tenant Board



Robert Brown
Member, Landlord and Tenant Board

Central-RO
3 Robert Speck Pkwy, 5th Floor
Mississauga ON L4Z2G5

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

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

**Schedule 1
SUMMARY OF CALCULATIONS**

File Number: CEL-03667-21

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)	August 1, 2021 to September 26, 2021	\$4,729.73
Less the amount the Tenant paid to the Landlord		-\$2,550.00
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	September 27, 2021 to January 1, 2022	\$8,132.48
Less the rent deposit:		-\$2,550.00
Less the interest owing on the rent deposit:	December 22, 2020 to September 26, 2021	-\$1.95
Administration charges related to NSF cheque charges:		\$60.00
Amount owing to the Landlord on the order date: (total of previous boxes)		\$7,820.26
Additional costs the Tenant must pay to the Landlord:		\$201.00
Total the Tenant must pay the Landlord if the tenancy is terminated:		\$8,021.26