

Order under Section 16.1 of the
Statutory Powers Procedure Act
and the **Residential Tenancies Act, 2006**

File Number: CET-90710-19-IN2

In the matter of: 3, 327 EAST STREET
ORILLIA ON L3V4C1

Between: Chassidy Kidd Tenant

and

Lina Nicolini Landlord

INTERIM ORDER

Chassidy Kidd ('CK' or the 'Tenant') applied for an order determining that Lina Nicolini ('LN' or the 'Landlord') or the Landlord's superintendent or agent harassed, obstructed, coerced, threatened or interfered with the Tenant, altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys, substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of the Tenant's household and withheld or deliberately interfered with the reasonable supply of a vital service, care service, or food that the Landlord is obligated to supply under the tenancy agreement. (T2 Application)

The Tenant also applied for an order determining that the Landlord failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards. (T6 Application)

These applications were heard in part on an expedited basis in Barrie on December 10, 2019, only in respect of the issues surrounding the alleged illegal lock-out of the Tenant. The Tenant, the Tenant's Legal Representative, Susanne Cooper (TTR-1), and the Landlord's Agent, Raymond Nicolini ('RN'), attended the hearing. Kelly Smith ('KS-W') appeared as a witness for the Tenant. That hearing was adjourned until a second hearing during the week of January 13, 2020 would be scheduled/convened. Interim order CET-90710-19-IN1 being issued to the parties at the December 10th hearing. The merits of the T2 and T6 applications were not heard at that time.

The second hearing was held by telephone on January 13, 2020. The second hearing was scheduled to solicit updates on the work/actions being taken to restore the rental unit, but not to hear the merits of the T2 and T6 applications.

Only the Tenant and the Tenant's Legal Representative, Stephanie Boomhour ('TTR-2'), participated in the telephone hearing. KS-W attended the hearing as a witness for the Tenant. I

waited an additional 15 minutes for the Landlord to join in the telephone hearing, but I ended up proceeding without the Landlord being present.

Determinations:

1. With respect to the December 10, 2019 interim order, TTR-2 stated the Landlord did return the rent for November 2019 to the Tenant, but did so on December 18, 2019.
2. KS-W provided an update on the actions being taken by the Landlord and the Landlord's insurance agents to restore the rental unit. KS-W confirmed that the Landlord and its agents, including *Paul Davis Restoration Services*, are cooperating with her.
3. KS-W testified that as of January 10/20, units 1 and 2 have been stripped to the studs, and that on December 13/19, RN and an engineer went into the rental unit to test for mould. The ceiling and drywall in the rental unit have been brought down. KS-W confirmed she has never been inside the rental unit, and is relying on reports that have been relayed to her.
4. KS-W testified that until the insurance adjuster approves all the work, the actual work to restore the rental unit will not be started, meaning it could be a good while before the Tenant could conceivably be able to return to the unit. She said the insurance company is basically in charge of the actions being taken, and she is waiting for any work permit applications to be submitted to her office for approval/issuance.
5. TTR-2 submitted that they have had "zero" communication initiated by the Landlord or RN; there have been no updates or any disclosure provided by the Landlord. In contrast, TTR-2 stated that the Tenant's evidence was disclosed to the Landlord's agent (NR) and to a paralegal recently hired by the Landlord (namely, Roz Bianchi) on December 23/19.
6. TTR-2 confirmed that through *Victim Services*, CK has remedied her homeless state by finding a new place to move into, which CK officially did on January 3, 2020. TTR-2 stated that CK still holds the keys to the rental unit out of an abundance of caution, and would like to transfer them to the Landlord. As CK cannot simply be homeless while the insurance company et al. do their work, TTR-2 stated this compelled CK to find an alternative living solution. Consequently, TTR-2 requested the Board order the termination of the tenancy to take effect as of January 3, 2020.
7. Based on the uncontested submissions, I find the Landlord has not fully complied with interim order CET-90710-19-IN1 which issued on December 10, 2019. I make this finding only in respect of the lateness in reimbursing the Tenant her November 2019 rent.
8. Having considered the submissions/circumstances disclosed, I am prepared to grant the Tenant's request to terminate the tenancy as of January 3, 2020, and will order the Landlord to return to the Tenant the last month's rent deposit being held, with any interest owing thereupon. .

9. The matter is adjourned, and the T2 and T6 applications will be heard on a date to be set by the Board.
10. I continue to be seized.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of January 3, 2020.
2. On or before January 31, 2020, the Landlord shall return the last month's rent deposit in full to the Tenant, along with any interest owing thereupon.
3. On or before January 31, 2020, the Tenant shall return all keys of the rental unit to the Landlord.
4. The hearing to deal with the merits of the T2/T6 applications is adjourned to a date to be set by the Board.
5. The parties shall send into the Board their unavailable dates on or before January 23, 2020, so that the Board can schedule the next hearing.
6. If the Landlord does not pay the Tenant the full amount owing under paragraph 2 above on or before January 31, 2020, the Landlord will start to owe interest. This will be simple interest calculated from February 1, 2020 at 3.00% annually on the balance outstanding.
7. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

January 17, 2020
Date Issued

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

Alex Brkic
Member, Landlord and Tenant Board

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