

Order under Section 69
Residential Tenancies Act, 2006

File Number: EAL-86130-19

In the matter of: 1728 JERSEY STREET
ORLEANS ON K4A4Y6

Between: Tanya Chandra

Landlord

and

Jennifer Farrell

Tenant

Tanya Chandra (the 'Landlord') applied for an order to terminate the tenancy and evict Jennifer Farrell (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 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; and
- the Tenant has been persistently late in paying the Tenant's rent. The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date (L2 Application).

This application was heard in Ottawa on March 9, 2020. Only the Landlord and the Landlord's legal representative, Greg Joy, attended the hearing.

Tenant's failure to attend the hearing:

Landlord legal representative provided a copy of an email dated January 21, 2020, between the Tenant and the Landlord in which the Tenant acknowledged today's hearing. I am, therefore, satisfied the Tenant received proper notice of the time, place and location of the hearing. We proceeded to hear the Landlord's application when the Tenant had not arrived by 9:30 am

Determinations and Reasons:

L1 Application

1. The Tenant is still in possession of the rental unit.
2. The Tenant has not paid the total rent the Tenant was required to pay for the period from September 1, 2019 to March 31, 2020. Because of the arrears, the Landlord served a Notice of Termination effective September 17, 2019.
3. The Tenant paid \$3,070.00 since the application was filed.
4. There is no last month's rent deposit being held by the Landlord.

L2 Application

N8 Notice

5. This is a monthly tenancy, and rent is due on the first day of each month. The uncontested evidence before me establishes that the Tenant was late in paying the rent 16 times between September 1, 2018 and March 1, 2020. Accordingly, we are satisfied the Tenant has persistently paid the rent late.

N5 Notice

6. The Landlord served a single N5 of Termination ("N5 Notice") on August 22, 2019. The N5 Notice asserts that the Tenant's behaviour or someone visiting or living with the Tenant has substantially interfered with the Landlord's lawful rights, privileges or interests. The specific allegations detailed in the N5 Notice are as follows:
 - a. The Tenant failed to pay the agreed upon utility bills jeopardizing the continued water service to the residence;
 - b. The Tenant failed to maintain the property free of debris and refuse creating a potential hazardous and unsanitary environment; and
 - c. The Tenant wilfully or negligently caused damage to the rental unit or the residential complex including, but not limited to, attaching stickers to walls and ceilings, breaking the garage door, breaking a glass pane in a window, and marking the walls with red stains.
7. Documentation presented by the Landlord establishes that the Tenant agreed to have the water bill for the rental unit billed directly to her. The Landlord presented copies of the written correspondence between her, the City of Ottawa, and the Tenant.

8. Having reviewed the correspondence, we are satisfied the Tenant is responsible for the water bill, was advised that the water bill was past due, and has failed to pay the water bill as required. We are of the opinion that by failing to pay the water bill, the Tenant has substantially interfered with the Landlord's lawful right, privilege or interest as an unpaid utility bill becomes the liability of a landlord.
9. The Landlord conducted inspections of the rental unit on October 26, 2018, June 4, 2019, and December 27, 2019. Photographs of the rental unit taken during these inspections were submitted into evidence. The photographs show the basement laundry room and storage area in disarray with piles of boxes, clothes, tools and toys.
10. In our view, the condition of the unit as depicted in the photographs would make it difficult for someone to access the main water shut off and water heater. The interior of the garage is inaccessible due to the volume of toys and household items.
11. Based on the evidence before me, we are satisfied the conduct of the Tenant, or someone visiting or living with the Tenant has substantially interfered with the Landlord's lawful right, privilege or interest. The Tenant is responsible for ordinary cleanliness of the rental unit. The amount of clutter in the unit prevents the Landlord from being able to access the main water shut off or hot water tank in the event of an emergency.
12. Photographs of the rental unit at the commencement of the tenancy were submitted into evidence. Having compared these photographs to the photographs taken at the time of inspections, we are satisfied the Tenant or someone living or visiting with the Tenant caused undue damage to the rental unit, including: a broken light fixture, towel rack, cabinetry hardware, screen window, faucet, marks on walls, cabinetry, front door, paint on the exterior patio stones, stickers and other adhesives on the ceiling, and damage to the drywall and the garage door. We are satisfied the damage substantially interferes with the Landlord's right, privilege or interest as the damage is to the Landlord's property and the Landlord will more likely than not incur costs for having to repair such damage.
13. Subsection 64(3) of the *Residential Tenancies Act, 2006* (the "Act") states that a tenant can void an N5 Notice by stopping the activities or correcting the described behaviour within seven days of being served with notice. In this case, the seven-day voiding period begins on August 23, 2019 and ends of August 29, 2019.
14. It was the evidence of the Landlord that the Tenant did not pay the water bill or declutter and clean the rental unit. Accordingly, we are satisfied the Tenant did not void the N5 Notice.
15. We have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find it would be unfair to grant relief from eviction pursuant to subsection 83 (1) of the Act.

16. The issuance of this Order was delayed for the following reasons. As a result of the Covid-19 pandemic, Tribunals Ontario announced it was suspending all pending evictions on March 16, 2020. On March 19, 2020, the Superior Court of Justice issued an order suspending the enforcement of LTB eviction orders during the period from March 19, 2020 to July 31, 2020. All those restrictions have now been lifted. Any payments made by the Tenant to the Landlord after the application was filed by the Landlord must be deducted from the amount ordered by the Board.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before August 15, 2020.
2. The Tenant shall pay to the Landlord \$14,344.50*, which represents the amount of rent owing and compensation up to August 4, 2020.
3. The Tenant shall also pay to the Landlord \$51.37 per day for compensation for the use of the unit starting August 5, 2020 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 August 15, 2020, the Tenant will start to owe interest. This will be simple interest calculated from August 16, 2020 at 2.00% annually on the balance outstanding.
6. Any payments by the Tenant to the Landlord after the application was filed by the Landlord are to be deducted from amount ordered by the Board
7. If the unit is not vacated on or before August 15, 2020, then starting August 16, 2020, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 August 16, 2020.

August 4, 2020
Date Issued



Dawn Sullivan
Member, Landlord and Tenant Board



Dawn King
Member, Landlord and Tenant Board

Eastern-RO
255 Albert Street, 4th Floor
Ottawa ON K1P6A9

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 February 16, 2021 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**

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2020 CanLII 117321 (ON LTB)

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)	September 1, 2019 to September 17, 2019	\$873.36
Less the amount the Tenant paid to the Landlord		-\$3,070.00
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	September 18, 2019 to August 4, 2020	\$16,541.14
Amount owing to the Landlord on the order date: (total of previous boxes)		\$14,344.50
Additional costs the Tenant must pay to the Landlord:		\$190.00
Plus daily compensation owing for each day of occupation starting August 5, 2020:		\$51.37 (per day)
Total the Tenant must pay the Landlord if the tenancy is terminated:		\$14,534.50, + \$51.37 per day starting August 5, 2020

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

Reasons for amount owing	Period	Amount
Arrears:	September 1, 2019 to August 31, 2020	\$18,751.56
Less the amount the Tenant paid to the Landlord		-\$3,070.00
Additional costs the Tenant must pay to the Landlord:		\$190.00
Total the Tenant must pay to continue the tenancy:	On or before August 15, 2020	\$15,871.56