



I hereby certify this is a true copy of an Order dated
DEC 18 2023
[Signature]
Landlord and Tenant Board

**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Perth & Stratford Housing Corporation v Dingman, ONLTB 0
Date: December 18, 2023
File Number: LTB-L-040981-23

In the matter of: 209, 645 DERRY ST E
LISTOWEL ON N4W2S8

Between: Perth & Stratford Housing Corporation Landlord

and

Nathan Dingman Tenant

Perth & Stratford Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Nathan Dingman (the 'Tenant') because:

- the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex involving the production of an illegal drug, the trafficking in an illegal drug or the possession of an illegal drug for the purposes of trafficking;
- the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex; and
- the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on December 7, 2023.

M. Lindsay on behalf of the Landlord, the Landlord's representative, T. Duchene, and the Tenant attended the hearing. OPP Officer J. Johnson ('JJ') attended a portion of the hearing as a witness.

The hearing commenced at 9:20 am with the testimony of Constable JJ. The Tenant joined the hearing at 9:33 am, having had some technical difficulties. I reviewed the testimony to that point with the Tenant, with confirmation as to accuracy from the witness JJ. The matter was then held down to allow the Tenant to confer with Tenant Duty Counsel. The hearing re-commenced at 10:30 am and proceeded to completion.

Determinations:

1. OPP Constable JJ testified to the following facts, none of which were disputed by the Tenant:
 - a) The police initially obtained a general warrant to monitor surveillance footage of the Tenant's unit. The police suspected that the Tenant and/or the other occupant were in possession of methamphetamine and fentanyl for purposes of trafficking;
 - b) The police subsequently obtained a search warrant for the unit, which was executed on May 3, 2023;
 - c) When the police arrived at the residential complex to execute the warrant they observed the Tenant leaving the unit. The Tenant was followed and arrested a short time later at a store. He was in possession, at that time, of a spring-loaded flick knife and a BB gun. With these devices, the Tenant was in contravention of a condition of an earlier release order as well as in contravention of subsection 145.5(a) of the Criminal Code. He was also in possession of 6 grams of methamphetamine;
 - d) The execution of the search warrant in the unit led to the police seizing hydromorphone tablets, a package of fentanyl, 2 BB pellet guns, and a shotgun style pellet gun. The police also found various items which they considered to be indicia of trafficking;
 - e) Only the other occupant was in the unit at the time of the search. Both the Tenant and that other occupant were charged with various offences involving illegal drugs and possession of firearms;
 - f) The case was heard and the Tenant was convicted on September 21, 2023 of the following:
 1. Possession of a Schedule 1 substance, being methamphetamine;
 2. Possession of a firearm or ammunition contrary to the earlier prohibition order;
 3. Failure to comply with a release order; and
 4. Possession of device prohibited under the Criminal Code (the flick knife).
2. The Tenant did not dispute the testimony of Constable JJ but pointed out that he had not been charged with trafficking. JJ conceded that the Tenant had not been charged with trafficking. The Tenant had been charged with possession for the purposes of trafficking but that charges had been withdrawn.

3. I find that the Landlord has established that the Tenant has committed an illegal act in the rental unit and that, subject to other relevant considerations, termination of the tenancy is warranted. I need not, accordingly, make determinations with respect to serious impairment of safety or substantial interference with reasonable enjoyment.
4. I indicated during the hearing that the mere facts that the Tenant was not charged with trafficking and was not convicted of possession for purposes of trafficking did not absolve the Tenant from responsibility for the other illegal acts for which he was convicted.
5. I granted the Tenant's request to confer privately with the Landlord's representative.
6. On returning from that discussion, the parties indicated that they had agreed to request that the tenancy be terminated on January 31, 2023. I granted that request.
7. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act') and considered the requirements of section 84 of the Act. I find that it would not be unfair to postpone the eviction until January 31, 2024 pursuant to subsection 83(1)(b) of the Act.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of January 31, 2024. The Tenant must move out of the rental unit on or before January 31, 2024.
2. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
3. If the Tenant does not pay the Landlord the full amount owing on or before January 31, 2024, the Tenant will start to owe interest. This will be simple interest calculated from February 1, 2024 at 7.00% annually on the balance outstanding.
4. The Tenant shall also pay the Landlord compensation of \$4.01 per day for the use of the unit starting February 1, 2024 until the date the Tenant moves out of the unit.
5. 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.
6. 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.

December 18, 2023
Date Issued

L Mitchell

Lynn Mitchell
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.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

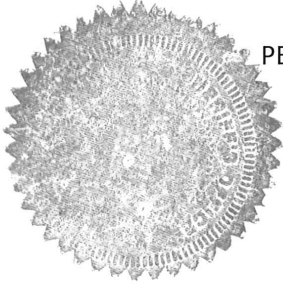
Eviction

Between:

Reference File No.: LTB-L-040981-23

Order Date: 18-Dec-23

Additional Court Files:



PERTH & STRATFORD HOUSING CORPORATION

Landlord/Mortgagee

- and -

NATHAN DINGMAN

Tenant/Mortgagor/Any
other occupant

NOTICE TO VACATE

TO: Tenant/Mortgagor/Any other occupant

I AM NOTIFYING YOU that by virtue of an order for vacant possession issued out of the:
LANDLORD AND TENANT BOARD

directed to me as sheriff to enforce, **I COMMAND YOU** to vacate the premises municipally
known as

209, 645 DERRY ST E
LISTOWEL
N4W 2S8

on or before ^{dd-mmm-yy} 29-Feb-24 at 08:30 a.m.

AND FURTHER TAKE NOTICE that if you fail to VACATE the premises as directed by the
above referenced order by the date shown, I will, without further notice to you, carry out the order
as directed.

DATED at Stratford

this February 6, 2024


Sheriff

The order is being executed pursuant to the instructions of:

L. WHITE (519) 271-3773 EXT: 240

Landlord/Agent or Mortgagee/Agent

PHONE: 519-271-1850

FAX: 519-271-8080