



Order under Section 69
Residential Tenancies Act, 2006

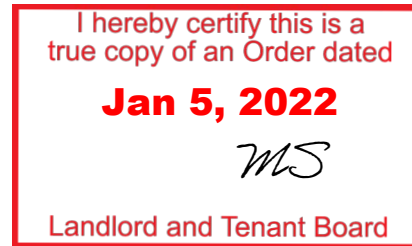
File Number: TEL-15139-21

In the matter of: MAIN FLOOR, 195 RITSON ROAD SOUTH
OSHAWA ON L1H5H6

Between: Angela Davis

and

Sally Gamache



Landlord

Tenant

Angela Davis (the 'Landlord') applied for an order to terminate the tenancy and evict Sally Gamache (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 wilfully or negligently caused undue damage to the premises. The Landlord has also applied for an order requiring the Tenant to compensate the Landlord for the damage; 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 Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date. (L2 application)

These L1 and L2 applications were heard by videoconference over two hearings, the first on June 8, 2021 and the second on October 19, 2021.

For the June 8, 2021 hearing, the Landlord, the Landlord's Legal Representative, Wendy Burgess, and the Tenant attended the hearing. The parties attempted mediation prior to the commencement of this merits hearing.

For the October 19, 2021 hearing, the Landlord and the Landlord's Legal Representative, Wendy Burgess, attended the hearing. As of 9:23 am, the Tenant was not present or represented and the hearing was commenced at that time.

Determinations:

1. At the June 8, 2021 hearing, the Landlord led seven exhibits into the record as part of her evidence in chief submissions for the L2 application, namely:
 - LL#1:- March 5, 2021 photos of garbage outside a rental unit door;
 - LL#2:- May 20, 2021 video clip involving the Tenant's father;

- LL#3:- photo of indoor electrical cord used outside in the March 8-April 29,2021 timeframe;
 - LL#4:- April 29, 2021 video clip – running of hose for 24 hours;
 - LL#5:- February 1, 2021 text from the Tenant calling the Landlord a ‘c____’;
 - LL#6:- March 4, 2021 text messages – Tenant threatens to damage house and cancel ODSP;
 - LL#7:- Video clip in which a racial slur is said.
2. At both the June 8, 2021 and October 19, 2021 hearings, the Landlord submitted an Update form, which provided an accounting of rents paid and still owing.
 3. At the October 19, 2021, the Landlord led an eighth exhibit that had been received but not clearly scanned into the Board’s records. I requested a better copy of that exhibit post-hearing, and I confirm the Landlord submitted exhibit LL#8 on October 19, 2021, which evidences the payment by the Landlord of \$88.14 for the damaged lock that had to be repaired.
 4. During the June 8, 2021 hearing, the Tenant contested the rent arrears claim made by the Landlord in the L1 application. The Tenant testified she has used another tenant’s computer to make her rent payments and can produce proof that she has paid more rent that is shown in the Landlord’s claim. For the L2 application, the Landlord testified concerning the various claims made, for example the garbage strewn outside the rental unit, the verbal insults made by the Tenant, the broken lock and the running of an indoor electrical cable outside. The Tenant contested the claims in the L2 application, for example by stating she paid \$400.00 to have the garbage taken away, she repaired the lock that she inadvertently broke and there was no wrongdoing in respect of the electrical cable used for the outdoor children’s inflatable bouncer. The Tenant countered by testifying that she has been substantially interfered with by the Landlord, for example with someone calling the Children’s Aid Society on six occasions against the Tenant. The Landlord disagreed with the Tenant about the broken lock, stating that the Landlord had to go to Home Depot to buy a new lock mechanism, which the Landlord had installed.
 5. The June 8, 2021 hearing was adjourned due to time constraints in that hearing block. I directed the parties orally that they were to submit any additional proof they may want to rely upon for the L1 application in particular (i.e. the Tenant said she could provide evidence of additional rent payments) and as well, for the L2 application.
 6. At the October 19, 2021 hearing, the Landlord submitted that the Tenant moved out of the rental unit on July 1, 2021. She indicated she was satisfied that she regained vacant possession on that date.
 7. Consequently, the Landlord requested that the L1 application be amended so that only a rent arrears order would result (i.e. no order for eviction), and that the L2 application be limited/narrowed to just the claim for the undue damage (replacement lock cost), deleting the claim for substantial interference.

8. Based on the new information about the Tenant moving out on July 1, 2021, I consented to narrowing both the L1 and L2 applications, as this represented little to no prejudice to the Tenant, who did not attend the October 19th hearing.
9. As well, I note that the Tenant made no submissions after the June 8, 2021 to the Board, so that in effect, the evidence submitted by the Landlord at the June 8th hearing was challenged but not rebutted by the Tenant successfully in any way.

L1 Application

10. The Tenant has not paid the total rent the Tenant was required to pay for the period from January 1, 2021 to October 31, 2021. Because of the arrears, the Landlord served a Notice of Termination (N4) effective January 25, 2021.
11. The monthly rent is \$3,000.00.
12. The Landlord collected a rent deposit of \$3,000.00 from the Tenant and this deposit is still being held by the Landlord.
13. Interest on the rent deposit is owing to the Tenant for the period from October 29, 2020 to January 25, 2021.
14. The Tenant paid \$8,500.00 after the application was filed.
15. The Tenant vacated the rental unit on July 1, 2021. The Board consented to narrowing the L1 application to an order for arrears only (i.e. no eviction).

L2 Application

16. The N5 notice claims “substantial interference with the Landlord’s or another tenant’s reasonable enjoyment and/or lawful rights, privileges or interest” under section 64 of the *Residential Tenancies Act, 2006* (the ‘Act’), and “wilful or negligent damage” in the amount of \$88.14 under section 62 of the Act. The L2 application also contains a claim for undue damage under section 89 of the Act in the same amount of \$88.14. This claim for undue damage is made to complement the claim for the same damage claimed under the N5 notice.
17. The L2 application was narrowed by consent of the Board at the October 19, 2021 hearing to delete the claim of substantial interference.
18. Based on the submissions and evidence of the parties, I find on a balance of probabilities that the Tenant wilfully or negligently damaged the rental unit as set out in the N5 notice. The Tenant did not pay the Landlord the \$88.14 claimed under the N5 notice (exhibit LL#8 which evidences the Landlord paid this amount to repair the lock), so I find as well that the Tenant did not void the N5 notice. However, since the Tenants vacated the rental unit on July 1, 2021 (per the L1 application), there is no need to consider circumstances or anything further in respect of relief from eviction.

19. Finally, for completion of the claims under the application, I also find that the Landlord's claim under section 89 of the Act is successful, and will order the damage under that claim to be paid by the Tenant to the Landlord.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of July 1, 2021 when the Tenant gave vacant possession of the rental unit back to the Landlord.

L1 Application

2. The Tenant shall pay to the Landlord \$4,749.93*, which represents the amount of rent owing and compensation up to July 1, 2021 (when the Tenant moved out), less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$201.00 for the cost of filing the application.

L2 Application

4. The Tenant shall also pay to the Landlord \$88.14, which represents the reasonable costs of repairing the undue damage or replacing the damaged property in the rental unit.

L1 and L2 Applications

5. The full amount owing by the Tenant to the Landlord under the L1 and L2 applications, including the application filing cost, is \$5,039.07.
6. If the Tenant does not pay the Landlord the full amount owing on or before January 31, 2022, the Tenant will start to owe interest. This will be simple interest calculated from February 1, 2022 at 2.00% annually on the balance outstanding.

January 5, 2022
Date Issued

Toronto East-RO
2275 Midland Avenue, Unit 2
Toronto ON M1P3E7



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.

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

**Schedule 1
SUMMARY OF CALCULATIONS**

File Number: TEL-15139-21

A. (L1 application) Amount the Tenant must pay as the tenancy is terminated:

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination N4)	January 1, 2021 to January 25, 2021	\$765.75
Less the amount the Tenant paid to the Landlord		-\$8,500.00
Plus compensation: (from the day after the termination date in the Notice to the date the Tenant vacated the rental unit)	January 26, 2021 to July 1, 2021	\$15,484.91
Less the rent deposit:		-\$3,000.00
Less the interest owing on the rent deposit:	October 29, 2020 to January 25, 2021	-\$0.73
Amount owing to the Landlord on the order date: (total of previous boxes)		\$4,749.93
Additional costs the Tenant must pay to the Landlord:		\$201.00
Total the Tenant must pay the Landlord as the tenancy is terminated:		\$4,950.93