



Order under Section 69
Residential Tenancies Act, 2006

File Number: SOL-19093-21

In the matter of: 4, 132 PAGE STREET
ST CATHARINES ON L2R4A9

Between: 2518819 Ontario Inc. Landlord

and

Brenda Trottier Tenant

2518819 Ontario Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Brenda Trottier (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.

This application was heard by way of video conference on December 15, 2021. Only the Landlord's Agent Monomohan Shira attended the hearing.

Determinations:

1. The Landlord's application is based on an N5 notice served to the Tenant on November 11, 2020 with a termination date of December 4, 2020.
2. For the reasons set out below, the Landlord's application is dismissed.

Landlord's uncontested evidence:

3. The N5 notice refers to specific incidents on October 24, 2020, October 25, 2020 and November 10, 2020.
4. The Landlord testified that on October 24, 2020 at approximately 3:30am he received a text message from another resident in the residential complex that the Tenant was repeatedly calling her rental unit on the buzzer intercom located at the front entrance of the residential complex.
5. On October 25, 2020 at approximately 7:30pm the Tenant was involved in a physical altercation with another resident inside the residential complex. Police were contacted, but it was unclear if charges were laid against the Tenant.
6. On November 10, 2020 at approximately 11:15am the Landlord received a text message from another resident that the Tenant had willfully blocked the other resident from

entering the front entrance doors of the residential complex. A physical altercation occurred, and the Police were contacted. It was unclear if charges were laid against the Tenant.

7. The Landlord was unaware of any incidents involving the similar conduct plead on the N5 from November 12, 2020 to November 18, 2020.
8. The N5 notice was served pursuant to section 64 of the *Residential Tenancies Act, 2006* (the Act) which states:

64 (1) A landlord may give a tenant notice of termination of the tenancy if the conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant is such that it substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another tenant or substantially interferes with another lawful right, privilege or interest of the landlord or another tenant.

(2) A notice of termination under subsection (1) shall,

- (a) provide a termination date not earlier than the 20th day after the notice is given;
- (b) set out the grounds for termination; and
- (c) require the tenant, within seven days, to stop the conduct or activity or correct the omission set out in the notice

(3) The notice of termination under subsection (1) is void if the tenant, within seven days after receiving the notice, stops the conduct or activity or corrects the omission.

9. It is clear in the wording of section 64(3) that when a Landlord serves a Tenant an N5 notice alleging substantial interference that the Tenant has seven days to correct the activity or conduct that gave rise to the notice. In this case, the seven-day voiding period was from November 12 - November 18, 2020. In order to void the N5, the Tenant was required to cease or refrain from getting involved in physical altercations, obstructing or disturbing other residents within the residential complex.
10. As this is a Landlord's application, the burden of proof rests with the Landlord to prove that the Tenant repeated the alleged conduct during the seven-day voiding period pursuant to the N5 notice. As the Landlord had no evidence of further incidents similar to those set out in the N5 notice during the period November 12 – November 18, 2020, I find that the Tenant voided the N5. Therefore, the Landlord was not entitled to file the L2 application with the Board. The Landlord's application must be dismissed for this reason.

It is ordered that:

- 1. The Landlord’s application is dismissed.

January 6, 2022
Date Issued



Fabio Quattrociochi
Member, Landlord and Tenant Board

January 6, 2022
Date Issued



Inderdeep Padda
Member, Landlord and Tenant Board

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