



Order under Section 69
Residential Tenancies Act, 2006

File Number: SWL-50708-21

In the matter of: 3, 140 WELLINGTON STREET
LONDON ON N6B2K8

Between: Abhay Fernandez Landlord

and

John Nicholas Tenant

Abhay Fernandez (the 'Landlord') applied for an order to terminate the tenancy and evict John Nicholas (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. 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 August 16, 2021. The Landlord and the Tenant attended the hearing.

Determinations:

1. The Tenant was in possession of the rental unit as of the date of the hearing.
2. The Landlord's application to terminate the tenancy is based upon an N5 Notice of Termination that was served upon the Tenant on April 12, 2021 (the 'N5 Notice'). The termination date in the N5 Notice is April 30, 2021.
3. The N5 Notice makes the following allegations:

April 11, 2021

11:28 PM

Tenant texted landlord that "someone turned off his hydro again." The other tenants said that they did not touch it, and there is no proof from the tenant that someone turned it off. Landlord suspects overloaded circuit tripped the breaker.

April 12, 2021

Other tenants informed Landlord that the door to the common area, where the breakers are for all units has been kicked in and broken, and needs to be replaced.

4. The Landlord stated that this is the second N5 Notice that had been served upon the Tenant within a six-month period. As such, there was no voiding period for the Tenant to address the Landlord's allegations and void the notice.
5. In *Ball v. Metro Capital Property*, [2002] O.J. No. 5931 ('*Ball*') the Divisional Court stated that, in order to determine the sufficiency of a notice of termination, it is necessary to consider the context of the notice. The Court held that the tenant needs to know the specific allegations against him/her for three purposes:
 - a. to know the case that must be met;
 - b. to decide whether to dispute the allegations; or
 - c. to consider whether to void the notice.
6. Further, section 43 of the *Residential Tenancies Act, 2006* (the "Act") requires a notice of termination to set out the reasons and details regarding the termination.
7. I find that the details included in the Landlord's N5 Notice are vague and speculative, and do not rise to the level of detail required to terminate a tenancy, pursuant to *Ball*. As such, I find that the Landlord's N5 Notice is invalid. A tenancy cannot be terminated pursuant to an invalid notice of termination and as such, the application must be dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

November 26, 2021
Date Issued

South West-RO
150 Dufferin Avenue, Suite 400, 4th Floor
London ON N6A5N6



Arnab Quadry
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.