



Order under Section 69
Residential Tenancies Act, 2006

File Number: EAL-91888-20

In the matter of: 50 LEONARD STREET
BRAMPTON ON N3T0H8

Between: Andrew Joseph Landlord

and

Jonathan Antone Tenants
Kailla Bomberry

Andrew Joseph (the 'Landlord') applied for an order to terminate the tenancy and evict Kailla Bomberry and Jonathan Antone (the 'Tenants') because they, another occupant of the rental unit or someone they permitted in the residential complex have substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

This application was heard via phone/videoconference on June 2, 2021.

The Landlord, represented by Dana Van Every, the Manager of Maintenance, and Lynn Sault, Housing Outreach worked, and the Tenants, represented by Michael Dow, a Lawyer from Brantford Haldimand Norfolk Legal Clinic, attended the hearing.

Preliminary Issue:

1. The Tenant's representative sought to have the application dismissed because the application was defective.

Determinations:

2. The Landlord served a first N5, a Notice to End your Tenancy For Interfering with Others, Damage or Overcrowding (the "Notice"), on August 5, 2021.
3. The Notice was sent via Canada Post mail, with a deemed service date of August 10, 2021.
4. This notice was effective August 30, 2021
5. Section 64 of the Residential Tenancies Act 2006 (the "Act") states;

(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. 2006, c. 17, s. 64 (1).

Notice

(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. 2006, c. 17, s. 64 (2).

Notice void if tenant complies

(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. 2006, c. 17, s. 64 (3).

- 6. The Tenant effectively complied with the requirements of the Act by stopping the conduct or activity within seven days after receiving the notice.
- 7. Although there may or may not have been further incidents, a second N5 had not been issued, nor has the Tenant been apprised of the circumstances. The Landlord filed an application without issuing the second N5 which renders it defective.

It is ordered that:

- 8. The Landlord's application is dismissed.

August 31, 2021

Date Issued



Peter Pavlovic
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.