



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

Citation: Ottawa Community Housing v Robinson, 2023 ONLTB 16280

Date: 2023-01-19

File Number: LTB-L-014472-22

In the matter of: 504, 215 Nepean
Ottawa ON K2P2K5

Between: Ottawa Community Housing Landlord

And

Edward Robinson Tenant

Ottawa Community Housing (the 'Landlord') applied for an order to terminate the tenancy and evict Edward Robinson (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.
- 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.
- 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 January 18, 2023.

The Landlord's Legal Representative, Gabriel Cormier and the Landlord's Property Manager, Tom Kasouf attended the hearing.

As of 9:25 am the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The Tenant was in possession of the rental unit on the date the application was filed.
2. The tenancy is a month to month and the lawful monthly rent is \$829.00.
3. The Landlord is not holding a last month rent deposit.

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Landlord's Evidence

4. The Landlord's Legal Representative testified that on December 21, 2022, the Tenant's social worker, Lauren Clark from The Ottawa Hospital notified the Landlord in writing that the Tenant wished to terminate his tenancy effective January 31, 2023. The Landlord provided a copy of this correspondence. The Landlord also provided a signed release by the Tenant dated December 20, 2022, that states any belongings left inside the rental unit after January 31, 2023, will be assumed unsalvageable goods and will be disposed without further notice to the Tenant.
5. The Landlord's Legal Representative states the Tenant is hospitalized, and his understanding is the Tenant requested to terminate the tenancy as he is not able to continue to live independently.

Analysis

6. Section 47 of the Act provides that: "a Tenant may terminate a tenancy at the end of a period of the tenancy or at the end of the term of a tenancy for a fixed term by giving notice of termination to the Landlord in accordance with section 44."
7. In this case a monthly tenancy, subsection 44(2) of the Act provides that: "a notice under section 47, 58, 144 to terminate a monthly tenancy shall be given at least 60 days before the date the termination is specified to be effective, and that date shall be on the last day of a rental period."
8. The Tenant's notice was given to the Landlord less than 60 days before the date he gave to vacate and therefore, it was not proper notice under s.44(2) of the Act. However, I am satisfied that the Landlord consented to the early notice of termination.
9. I am satisfied that the Tenant agreed to terminate the tenancy effective January 31, 2023.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before January 31, 2023.
2. If the unit is not vacated on or before January 31, 2023, then starting February 1, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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, 2023.

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January 19, 2023

Date Issued

Trish Carson

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, 2023 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.

