



Order under Sections 77 and 100
Residential Tenancies Act, 2006

File Number: TSL-16803-20

In the matter of: 302, 81 ISABELLA STREET
TORONTO ON M4Y1N7

Between: Akelius Canada Limited Landlord

and

Vincent Wong Tenant

Ariana Markle Unauthorized Occupant

2021 CanLII 129962 (ON LTB)

Akelius Canada Limited (the 'Landlord') applied for an order to terminate the tenancy of Vincent Wong (the 'Tenant') and to evict Ariana Markle (AM), the unauthorized occupant occupying the unit, and for compensation for the use of the rental unit (A2 application).

The Landlord also applied for an order to terminate the tenancy of the Tenant because the Tenant gave notice to terminate the tenancy (L3 application).

This application was heard via video conference on August 26, 2021.

Anna Grendys (AG), the Landlord's property manager and the Landlord's legal representative, Bryan Rubin attended the hearing. The Tenant and the Tenant's legal representative, Marshall Yarmus attended the hearing.

At 9:52 a.m. Ariana Markle, the occupant was not present or represented at the hearing.

The Landlord's A2 application was amended to correct the typographical error as it relates to the amount of the monthly rent. The application was amended to show the rent as \$1,214.86.

Agreed Facts:

1. The tenancy between the Tenant and the Landlord terminated as of June 30, 2020 and the Tenant vacated the unit on same day.
2. The Tenant agrees that when he moved out of the unit, he left the occupant in the unit.
3. The Landlord only had a lease agreement with the Tenant.

Determinations:

A2 application:

1. The issue to be determined by the Board is whether the Tenant transferred the occupancy of the rental unit without the Landlord's consent.
2. The Landlord's property manager, AG testified that after the Tenant gave notice to terminate the tenancy the Landlord attended at the unit on July 2, 2020 to change the locks. At this time, the Landlord discovered that someone, namely Ariana Markle (AM), was living in the unit and is still occupying the unit. AM told the Landlord that the lease was transferred.
3. AG testified that the Landlord did not have a tenancy agreement with AM. The Landlord offered AM to fill out a rental application for the unit, but AM refused to apply for the unit.
4. The monthly rent is \$1,214.86 and no rent has been paid.
5. The Tenant transferred the occupancy of the rental unit to Ariana Markle (hereinafter called the 'Unauthorized Occupant') in a manner that was not authorized by the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord did not enter into a tenancy agreement with this person.
6. The Unauthorized Occupant was in possession of the rental unit on the date the application was filed.
7. The Landlord is entitled to compensation for the use and occupation of the rental unit by the Unauthorized Occupant.
8. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

L3 application:

9. The hearing of the L3 application is moot, as the Tenant already vacated the unit.
10. At the hearing, the Landlord requested the consent of the Board to withdraw their application.
11. In accordance with subsection 200(4) of the Act, I consent to the withdrawal of the application.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of June 30, 2020.
2. The Unauthorized Occupant shall move out of the rental unit on or before October 10, 2021.

3. The Unauthorized Occupant shall pay to the Landlord \$18,172.70, which represents compensation for the use of the unit from July 2, 2020 to September 29, 2021.
4. The Unauthorized Occupant shall also pay to the Landlord \$39.94 per day for compensation for the use of the unit from September 30, 2021 to the date they move out of the unit.
5. The Unauthorized Occupant shall also pay the Landlord \$201.00 for the cost of filing the application.
6. The Unauthorized Occupant shall pay the Landlord the full amount owing by October 10, 2021.
7. If the Unauthorized Occupant does not pay the Landlord the full amount owing by October 10, 2021, she will owe interest. This will be simple interest calculated from October 11, 2021 at 2.00% on the outstanding balance.
8. If the unit is not vacated by October 10, 2021, then starting October 11, 2021, the Landlord may file this order with the Court Enforcement Office (the Sheriff), so that the eviction may be enforced.
9. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord after October 11, 2021.
10. The Landlord's L3 application is dismissed.

September 29, 2021
Date Issued



Debbie Mosaheb
Member, Landlord and Tenant Board

Toronto South-RO
15 Grosvenor Street, 1st 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 expires on April 11, 2022 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.