



Order under Section 69
Residential Tenancies Act, 2006

File Number: HOL-11122-21

In the matter of: 919 MEMORIAL CIRCLE
NEWMARKET ON L3X0B6

Between: Denise Chan Landlords
Huaifeng Xu

and

Jason Smith Tenants
Mary Butcher

Denise Chan and Huaifeng Xu (the 'Landlords') applied for an order to terminate the tenancy and evict Jason Smith (JS) and Mary Butcher (MB) (the 'Tenants') because

- a) 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 Landlords or another tenant.

The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard via video/teleconference on October 7, 2021.

The Landlords the Landlord's Legal Representative Barrington Lue Sang and the Tenant (MB) attended the hearing. Tenant (MB) advised that Tenant (JS) was no longer an occupant of the rental unit.

Determinations:

1. The application by the Landlord was based upon a N5 notice of termination given to the Tenants that alleges that the Tenant (MB) has on multiple occasions refused entry to the rental unit after the Landlord provided 24 hours written notice of entry as required by section 27 of the Residential Tenancies act, 2006 (the 'Act').
2. Section 27 of the Act states: "(1) A landlord may enter a rental unit in accordance with written notice given to the tenant at least 24 hours before the time of entry for any reasonable reason.
3. Subsection 27(2) and (3) of the Act allows a landlord or a registered real estate broker or agent to enter a rental unit to allow a potential purchaser to view the rental unit, provided that 24 hours' written notice has been provided for entry between the hours of 8 a.m. and 8 p.m.

4. The Board's Interpretation Guideline 19 deals with a landlord's right of entry into a rental unit.
5. Guideline 19 states that:
 - the landlord's right of entry can be exercised if the tenant is not in the rental unit at the time of entry
 - a tenant does not have the right to deny entry simply because the time of entry is not convenient to the tenant
 - the tenant must not interfere with the landlord's right of entry;
 - the tenant must not interfere with the landlord and its agents.
6. Subsection 64(1) says: "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 substantially interferes with the lawful right, privilege or interest of the landlord or another tenant." [Emphasis added.]
7. The N5 notice of termination was served on the Tenant June 17, 2021.
8. The N5 notice required the Tenant to refrain from refusing entry to the rental unit after the Landlord has given proper notice to enter.
9. The Tenant testified that she refused entry because of personal health problems and the risks associated with the COVID-19 pandemic. She provided no medical documentary evidence in support of her purported health condition during the period that the Landlord was seeking entry to the rental unit to show the unit to prospective buyers.
10. I find the conduct of the Tenant by refusing entry to the rental unit after receiving proper notice of entry by the Landlord has substantially interfered with the Landlords' lawful rights, privileges or interests.
11. 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 not be unfair to grant relief from eviction subject to the condition(s) set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
12. The order contains all the reasons for the decision in the order. No other reasons will be issued.

It is ordered that:

1. The Tenant (MB) shall for the duration of this tenancy, upon being provided with a notice of entry in accordance with section 27 of the Act, the Tenant shall allow the Landlord or an Agent of the Landlord access to the unit for the purposes of inspections of the unit and/or to show the rental unit to prospective buyers.

2. In the event that the Tenant fails to comply with the requirements of paragraph 1 above, the Landlord shall be entitled to apply to the Board, without any notice to the Tenant, for an order terminating the tenancy and evicting the Tenants, pursuant to Section 78 of the Residential Tenancies Act 2006. The Landlord must make this application to the Board no later than 30 days after a breach of the order by the Tenant.
3. The Tenants shall also pay to the Landlords \$186.00 for the cost of filing the application.
4. If the Tenants do not pay the Landlords the full amount owing on or before October 30, 2021, they will start to owe interest. This will be simple interest calculated from October 31, 2021 at 2.00% annually on the balance outstanding.
5. If the Tenants do not pay the Landlord the full amount owing on or before October 30, 2021, the Tenants will start to owe interest. This will be simple interest calculated from October 31, 2021 at 2.00% annually on the balance outstanding.



Randy Aulbrook
Member, Landlord and Tenant Board

October 15, 2021
Date Issued

Head Office
777 Bay Street, 12th Floor
Toronto Ontario M5G2E5

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