



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

**File Number:** TEL-12613-20

**In the matter of:** 50 KIRKHAM DRIVE  
AJAX ON L1S5K4

**Between:** Blake Clark Landlord

**and**

Annie Montrose Tenant

Blake Clark (the 'Landlord') applied for an order to terminate the tenancy and evict Annie Montrose (the 'Tenant') because: the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has wilfully or negligently caused undue damage to the rental unit or residential complex; and, substantially interfered with the reasonable enjoyment of the residential complex or another lawful right, privilege or interest of the Landlord. This is the N5/L2 Application.

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because: the Tenant or another occupant of the rental unit committed or permitted an illegal act or illegal business in the rental unit or residential complex. This is the N6/L2 Application.

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because: the Tenant, an occupant of the rental unit or someone the Tenant permitted in the residential complex has seriously impaired the safety of a person in the residential complex; wilfully caused undue damage to the rental unit or residential complex; and, substantially interfered with the Landlord's reasonable enjoyment of the rental unit or residential complex, or another lawful right privilege or interest of the Landlord, in a building with three or fewer residential units where the Landlord also resides. This is the N7/L2 Application.

The Landlord also applied for an order requiring the Tenant to compensate the Landlord for the damage and for compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on May 18, 2021.

Only the Landlord attended the hearing. The Tenant was not present or represented by 10:58 a.m. although properly served with notice of the hearing by the Board.

**Determinations:**

1. The Tenant was in possession of the rental unit when the Landlord filed the application on September 22, 2020.
2. The Landlord's uncontested evidence was that the Tenant vacated the rental unit sometime between October 5-8, 2020. Bearing in mind that this is a landlord's application and that the Landlord bears the burden of proof, I find that it is appropriate to give the benefit of doubt to the Tenant. The Tenant vacated the rental unit on October 5, 2020.
3. As the tenancy terminated when the Tenant vacated the rental unit on October 5, 2020, the remaining issue is the Landlord's entitlement to the reasonable costs to repair or replace damaged property.
4. Subsection 89(1) of the Act states:

89 (1) A landlord may apply to the Board for an order requiring a tenant to pay reasonable costs that the landlord has incurred or will incur for the repair of or, where repairing is not reasonable, the replacement of damaged property, if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex wilfully or negligently causes undue damage to the rental unit or the residential complex and the tenant is in possession of the rental unit.

5. In this case, the Landlord's L2 Application seeks \$1,500.00 in relation to repairs to the washroom, flooring and refrigerator as well as damage caused by fire and smoke.
6. The Landlord presented photographic evidence of extensive damage to the rental unit.
7. With respect to the washroom, the Tenant presented a photograph of a damaged shower stall. This is a semi-circular shower with curved Lexan panels. One panel is torn in such a manner that the shower itself could no longer prevent water from escaping the shower enclosure. I accept that this damage is not normal wear and tear and that this damage was caused by the Tenant. I also accepted the Landlord's uncontested evidence that this panel could not be repaired and that the cost of replacement was \$1,009.08.
8. With respect to the flooring, I accepted the Landlord's uncontested evidence that water spilling from the shower enclosure caused extensive damage to the flooring of the rental unit, which became swollen. I accept that this damage was not normal wear and tear and that this damage was caused by the Tenant. I also accepted the Landlord's uncontested evidence that this flooring could not be repaired and that the Landlord spent \$3.00 per square foot to replace the damaged flooring for a total cost of \$2,400.00.
9. With respect to the refrigerator, I accepted the Landlord's uncontested evidence that refrigerator was damaged in the following ways: the door to the refrigerator was severed from the body of the refrigerator; the door handle was severed from the body of the door; and, the hinges were destroyed. I accept that this damage was not normal wear and tear and that this damage was caused by the Tenant. I also accepted the Landlord's uncontested evidence that his attempts to repair the refrigerator were unsuccessful and

that he ultimately had to replace the refrigerator. The Landlord purchased a used refrigerator for \$700.00.

10. With respect to the fire and smoke, I accepted the Landlord's uncontested evidence that he lived above the rental unit and that he was awoken by the sound of his child crying. He found the residential complex full of smoke. When he went to find the source of the smoke he could hear the fire alarm in the rental unit sounding. Upon entry, he found the Tenant passed out in the rental unit with food burning on the stove. The Landlord explained that he tried to wake the Tenant but that she could not be revived and that he had to call the paramedics. The Landlord presented photographs of food burning on the stove, the Tenant asleep on the couch and the paramedics removing the Tenant from the rental unit. I accepted the Landlord's uncontested evidence that the fire started by the Tenant destroyed the range hood and that smoke permeated the rental unit and caused smoke damage. This was not normal wear and tear and I accept that the Tenant caused this damage. I also accepted that the Landlord spent \$710.79 to remediate the smoke damage, a further \$800.00 to replace ceiling tiles that were permeated with smoke and a further \$302.39 to replace the range hood that could not be repaired.
11. The Landlord has proven that the Tenant wilfully or negligently caused damage that exceeds the amount claimed on the L2 Application. The result is that the Tenant will be ordered to pay the Landlord the full \$1,500.00 claimed.
12. The monthly rent was \$1,100.00 and the Landlord is entitled to 2-days compensation at \$36.16 per day for the Tenant's use and occupation of the rental unit from October 4, 2020 to October 5, 2020.
13. The Landlord collected a rent deposit of \$1,100.00 from the Tenant and this deposit is still being held by the Landlord. The Landlord owes the Tenant interest on the rent deposit from September 23, 2020 to October 3, 2020.

**It is ordered that:**

1. The tenancy is terminated as of October 5, 2020, the date the Tenant gave vacant possession of the rental unit to the Landlord.
2. The Tenant shall pay to the Landlord \$471.59, which represents the reasonable costs of replacing the damaged property and compensation for the use of the unit from October 4, 2020 to October 5, 2020 less the amount of the rent deposit and the interest owing on the deposit.
3. The Tenant shall also pay the Landlord \$186.00 for the cost of filing the application.
4. If the Tenant does not pay the Landlord the full amount owing on or before July 4, 2021, the Tenant will start to owe interest. This will be simple interest calculated from July 5, 2021 at 2.00% annually on the balance outstanding.

**June 23, 2021**  
**Date Issued**

Toronto East-RO  
2275 Midland Avenue, Unit 2  
Toronto ON M1P3E7



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Douglas Wilkins  
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.