Tribunals Ontario
Landlord and Tenant Board

Order under Section 69
Residential Tenancies Act, 2006

File Number: SOL-16551-20

In the matter of: LOWER, 46 HOWARD STREET
HAGERSVILLE ON N0A1H0

Between: Dennis Smith   Landlord

and

Paul Thompson   Tenants
Whitney Mason

Dennis Smith (the 'Landlord') applied for an order to terminate the tenancy and evict Paul Thompson and Whitney Mason (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. The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on October 29, 2021. Only the Landlord attended the hearing. As of 11:35 a.m. the Tenants were not present or represented at the hearing although properly served with notice of this hearing as it appears from the Certificate of Service.

Determinations:

1.   The application is based on a voidable Notice of Termination served on the Tenants on August 17, 2020 with a termination date of September 6, 2020 because the Tenants failed to pay utilities in the amount of $ 1,400.00.

2.   The Board has no jurisdiction to award the cost of the outstanding utilities unless the utilities are included in the rent, in which case they became rent owing. In this case the utilities are charged separately from the rent at a cost of $175.00 per month.

3.   The Landlord, in addition to costs, is seeking eviction, however the Tenants moved out of the rental unit on May 11, 2021. Therefore, there is no eviction for the Board to order.

4.   The application is dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

January 7, 2022
Date Issued

Dawn King
Member, Landlord and Tenant Board

Southern-RO
119 King Street West, 6th Floor
Hamilton ON L8P4Y7

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