



Order under Section 69
Residential Tenancies Act, 2006

File Number: TSL-23400-21

In the matter of: APT 4, ROOM 1, 525 DUNDAS STREET W
TORONTO ON M5T1H4

Between: 781942 Ontario Limited

Landlord

and

Trong Tam Duong

Tenant

781942 Ontario Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Trong Tam Duong (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; and because 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. 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 October 1, 2021.

The Landlord's legal representative, Jeff Shabes, and the Landlord's personal representative, James Wong, attended the hearing. As of 9:21 a.m., the Tenant was not present or represented at the hearing.

Background:

1. The rental unit in this matter is a room with shared facilities in a multiroom apartment.
2. The Landlord originally rented the entire multiroom apartment to Individual A as a sole tenant, however, Individual A rented out rooms in the multiroom apartment to several other tenants, including the rental unit in this matter to the named Tenant in this matter.
3. Individual A is no longer involved with the residential complex and the Landlord's personal representative states that the Landlord and Tenant are now in a direct landlord-tenant relationship.

Determinations:

1. The Landlord's application is dismissed.

2. The notices of termination for substantial interference and serious impairment of safety state that the Landlord has been summonsed to appear before the Ontario Court of Justice of the Province of Ontario with respect to charges for contravention of the Fire Protection and Prevention Act 1997, S.O. 1997 (FPPA) and that the Landlord must obtain vacant possession in order to fully comply with the summons.
3. While at first glance these notices do not appear to identify any behaviour engaged in by the Tenant that would allow the Landlord to serve the notices of termination, the Landlord's representative argued at the hearing that, in light of the FPPA contraventions, the Tenant's continued occupation of the rental unit itself was the behaviour which constituted substantial interference and serious impairment of safety.
4. I do not accept these arguments.
5. To begin with, the notice of termination for substantial interference is voidable, meaning the Tenant can continue the tenancy if they cease engaging in the behaviour identified in the notice. In this case, the notice requires the Tenant to move out of the rental unit (i.e. terminate the tenancy) in order to void the notice and continue the tenancy. This does not make any sense. I find the notice of termination for substantial interference in this matter to be fatally flawed because it does not identify any recognizable substantial interference which the Tenant can rectify.
6. I find the notice of termination for serious impairment of safety to be similarly flawed. Notices of termination for impairment of safety come with abbreviated notice periods and expedited eviction/enforcement. They are for serious behaviour, not simply residing in one's rental unit. I find the notice of termination for serious impairment of safety in this matter to be fatally flawed because it does not identify any recognizable behaviour constituting serious impairment of safety. In addition, I do not find in this case that the Tenant engaged in any behaviour that constituted serious impairment of safety.

It is ordered that:

1. The Landlord's application is dismissed.

November 15, 2021
Date Issued



Richard Ferriss
Member, Landlord and Tenant Board

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