



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

Citation: 2765749 Ontario Corporation v Young, 2023 ONLTB 68134

Date: 2023-10-18

File Number: LTB-L-050336-22

In the matter of: 6-871 Adelaide Street North
London, ON N5Y 2M2

Between: 2765749 Ontario Corporation

And

Franklin Young

I hereby certify this is a
true copy of an Order dated
OCT 18 2023
Landlord and Tenant Board

Landlord

Tenant

2765749 Ontario Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Franklin Young (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.

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 September 5, 2023.

Only the Landlord's agent James Fernandez attended the hearing.

As of 9:54 am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation. Therefore, the tenancy is terminated.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On April 12, 2022, the Landlord gave the Tenant a first, voidable N5 notice of termination deemed served that same date.
4. The Landlord's agent testified that on October 13, 2021, the Landlord had conducted an inspection of the Tenant's unit as there had been extreme cockroach activity coming from the Tenant's unit. As a result, the Landlord had retained Orkin Pest Control ('OPC') to treat the infestation.

5. Inspections and treatments of the unit had occurred on October 20, 2021, November 11, 2021, December 5, 2021, December 29, 2021, February 8, 2022, March 1, 2022, and March 22, 2022.
6. On each occasion, the Tenant's unit was never completely prepared for treatment which would result in subsequent treatments and costs. The Tenant's unit was at all times cluttered, food was not put away properly and the unit was generally unsanitary. The Tenant would agree on each occasion to prepare the unit for treatment however, this was never completed properly and the issue with cockroaches persisted.
7. The Landlord testified that the Tenant was given many chances to comply over a series of months however, the cockroach issue was never fully remedied.
8. Despite the Tenant never voiding the notice, the Landlord served the Tenant a second, non-voidable N5 notice of termination under section 68 of the *Residential Tenancies Act, 2006* (Act).
9. On September 3, 2022, the Landlord gave the Tenant a second N5 notice of termination deemed served that same date. The notice of termination alleges that subsequent treatments were required on April 12, 2022, May 3, 2022, May 26, 2022, June 16, 2022, July 4, 2022, July 25, 2022, and August 15, 2022. The Landlord also alleges that on August 29, 2022, the Tenant caused a fire in his unit, which filled the basement floor of the residential complex with smoke.
10. The Landlord's agent testified that OPC would continually report to him that on every occasion the Tenant's unit was never properly prepared for treatment and testified that the Tenant had caused a fire in the unit on August 29, 2022.
11. Based on the Landlord's uncontested evidence, I am satisfied on a balance of probabilities that this conduct has substantially interfered with the Landlord's and/or another tenants' reasonable enjoyment of the residential complex.

Daily Compensation

12. The Tenant was required to pay the Landlord \$11,302.42 in daily compensation for use and occupation of the rental unit for the period from May 8, 2022 to September 5, 2023.
13. Based on the Monthly rent, the daily compensation is \$23.26. This amount is calculated as follows: \$707.37 x 12, divided by 365 days.
14. Since the termination date in the notice of termination, the Tenant paid the Landlord \$9,124.86 in rent.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. The Landlord collected a rent deposit of \$685.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$37.79 is owing to the Tenant for the period from November 1, 2019 to September 5, 2023 .
17. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

Section 83 Considerations

18. The Landlord's agent testified that the Landlord had tried continuously working with the Tenant with respect to his issues, having offered clean-up services at their own expenses to which the Tenant refused. The Landlord testified that the Tenant is pleasant and is always apologetic but is never able to comply with OPC's requests regarding treatment of the unit.
19. 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.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before October 29, 2023.
2. If the unit is not vacated on or before October 29, 2023, then starting October 30, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord on or after October 30, 2023.
4. The Tenant shall pay to the Landlord \$2,177.56, which represents compensation for the use of the unit from May 8, 2022 to September 5, 2023.
5. The Tenant shall also pay the Landlord compensation of \$23.26 per day for the use of the unit starting September 6, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The Landlord owes \$722.79 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
8. The total amount the Tenant owes the Landlord is \$1,640.77.
9. If the Tenant does not pay the Landlord the full amount owing on or before October 29, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 30, 2023 at 7.00% annually on the balance outstanding.

October 18, 2023
Date Issued



Jagger Benham
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground 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 of the Tenant expires on April 30, 2024 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.

