



**Order under Section 69 / 89
Residential Tenancies Act, 2006**

Citation: LIUANA Non-Profit Housing Corp v St Cyr, 2024 ONLTB 11203

Date: 2024-05-01

File Number: LTB-L-018215-23

In the matter of: 609, 248 BRITTANY DR OTTAWA
ON K1K4R2

Between: LIUANA Non-Profit Housing Corp Landlord

And

Crystal Samson St Cyr Tenant

LIUANA Non Profit Housing Corp (the 'Landlord') applied for an order to terminate the tenancy and evict Crystal Samson St Cyr (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.

LIUANA Non Profit Housing Corp (the 'Landlord') also applied for an order requiring Crystal Samson St Cyr (the 'Tenant') to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant.

This application was heard by videoconference on February 1, 2024.

Only the Landlord and the Landlord's Legal Representative, Trevor Jacquard, attended the hearing.

As of 10:56 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 in the application. Therefore, the tenancy is terminated, and the Tenant must reimburse the Landlord for damage to the rental unit.
2. The Tenant was in possession of the rental unit on the date the application was filed. N5

Notice of Termination

3. On December 12, 2022, the Landlord gave the Tenant a first, voidable N5 notice of termination with a termination date of January 5, 2023. This notice outlined that on November 8, 2022, property management staff conducted a unit inspection and found the Tenant's dog had been urinating in the unit resulting in damage to the carpet, which interfered with other tenants' reasonable enjoyment of the residential complex.
4. On January 27, 2023 the Landlord gave the Tenant a second, non-voidable N5 notice of termination with a termination date of February 13, 2023. The notice of termination contains the following allegations: on January 26, 2023 fire inspectors arrived to conduct an inspection and were refused entry by the Tenant which interfered with the Landlord's lawful rights, privileges or interests.
5. It is the allegations contained in the second N5 that I must consider in determining whether to terminate the tenancy. For the reasons that follow below, I find the Landlord's application sufficiently proves that the Tenant's actions have substantially interfered with the Landlord's lawful rights, privileges or interests.
6. The Landlord's Legal Representative called the on site property manager, Dorothy Boal, as a witness. Ms. Boal provided testimony which corroborated the evidence which had been presented by the Landlord's Legal Representative.
7. The Landlord's Legal Representative submitted that on January 24, 2023, a notice of entry had been served to the Tenant informing them of a unit inspection which was to occur on January 26, 2023.
8. The fire inspectors arrived at the unit on January 26, 2023, and found a note taped to the door stating this was an illegal entry. Property management staff attempted to speak with the Tenant at the door who refused entry for the inspectors. The staff and inspectors then left the unit.
9. The Landlord's Legal Representative stated that the issues with the unit are ongoing and have not been addressed by the Tenant. The Tenant had emailed the Landlord on January 26, 2024 informing them that she was no longer living in the unit. However, her personal belongings remained in the unit and rent continued to be paid. Beside this email communication, other attempts by the Landlord to contact the Tenant have not been successful.
10. I find the Tenant's actions have negatively impacted the Landlord's lawful rights, privileges or interests. The Landlord is permitted legal entry to a unit to conduct general inspections.

By refusing the previously referenced persons entry to the unit, important work needed to maintain the unit was not possible.

11. The Landlord collected a rent deposit of \$109.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$5.01 is owing to the Tenant for the period from April 1, 2022 to February 1, 2024.
12. 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.

Compensation for damages

13. The Tenant wilfully or negligently caused undue damage to the rental unit or residential complex. The unit's carpet has significant amounts of dog urine and feces, as seen in the submitted photographs. Based on the evidence presented, I find that the Tenant's dog had negligently caused damage to the rental unit.
14. The associated L2 application has a damage cost of \$1,240.74 relating to the replacement of the unit's rugs. The Landlord's Legal Representative referred to an estimate prepared by Athens Rugs, dated February 28, 2023. He stated that this company provided all the carpeting for this complex.
15. As such, I find the Landlord will incur reasonable costs of \$1,240.74 to replace property that was damaged and cannot be repaired.

Relief from eviction

16. 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. The issues as outlined in the 2nd N5 notice have been persistent and ongoing since late 2022 until now. The general state of the rental unit is affecting other Tenants units, such as the cockroach infestation, which had been investigated by City of Ottawa By-law Officers, and has migrated to other units. The Landlord's Legal Representative stated they were not aware of any mental health or medical issues with the Tenant.
17. As the Tenant did not attend and no other circumstances were presented to me, I find 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, as of May 12, 2024. The Tenant must move out of the rental unit on or before May 12, 2024.
2. If the unit is not vacated on or before May 12 2024, then starting May 13, 2024, 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 May 13, 2024.
4. The Tenant shall pay to the Landlord \$1,240.74, which represents the reasonable costs of replacing the damaged property.
5. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. The Landlord owes \$114.01 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.
7. The total amount the Tenant owes the Landlord is \$1,312.73.
8. If the Tenant does not pay the Landlord the full amount owing on or before May 12, 2024, the Tenant will start to owe interest. This will be simple interest calculated from May 13, 2024 at 7.00% annually on the balance outstanding.

May 1, 2024

Date Issued

Justin Leung

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 November 13, 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.

