



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

Citation: Windsor Essex Community Housing Corporation v Yager, 2024 ONLTB 5987

Date: 2024-01-29

File Number: LTB-L-059711-22

In the matter of: 1602, 255 RIVERSIDE DR E
WINDSOR ON N9A6T6

Between: Windsor Essex Community Housing Corporation Landlord

And

Joseph Yager Tenant

Windsor Essex Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Joseph Yager (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. The Landlord's Representative waived the claim for daily compensation at the hearing.

This application was heard by videoconference on January 8, 2024.

Only the Landlord's Agent Tiffany Mokhtari and the Landlord's Legal Representative Cameron Parrott attended the hearing.

As of 2:57 PM, 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. Therefore, the tenancy is terminated on February 29, 2024. 2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On September 9, 2022, the Landlord gave the Tenant an N5 notice of termination. The notice of termination alleges that the Tenant was hoarding items in the rental unit to the point that the Landlord's contractors could not walk through the unit to conduct repair work, and that the Tenant's dog was seen off leash and urinating on the hallway floor of the residential complex on September 3, 2022.
4. In making my determinations on the level of clutter in the rental unit, I refer to the Clutter Image Rating Scale, which was developed by the International OCD Foundation. It is a series of photographs showing varying degrees of clutter that help quantify the severity of a cluttering problem. The photographs are readily available on-line. There are different sets of photographs for a kitchen, bedroom and living room and they are ranked on a numerical scale. Generally speaking, a 3 or lower on the clutter scale is considered to be acceptable; a 4 or higher indicates something needs to be done.
5. The Landlord did not lead any evidence about the September 3, 2022 incident relating to the Tenant's dog. As such, the only issue in this application that I considered was the hoarding.
6. The Landlord's Agent presented three photographs taken at an inspection of the rental unit on August 25, 2022, described below.
 1. The first photograph shows the space on the inside of the entrance door. There are numerous items in cluttering the space and there is a narrow passage to the next room. This image corresponds to a five on the Clutter Image Rating Scale.
 2. The second photograph shows the living room. There is a mattress taking up the majority of the space and numerous items strewn across the room. This image corresponds to a five on the Clutter Image Rating Scale.
 3. The third photograph shows the bedroom. There is no furniture, but the room is completely filled with clothing and other items. There is no passageway. This image corresponds to a seven on the Clutter Image Rating Scale.
7. Based on the uncontested evidence of the Landlord's Agent, I make the following findings of fact:
 1. The Tenant is hoarding items in the rental unit.
 2. The Landlord's contractors cannot do renovation work or pest treatment in the rental unit because of the hoarding.
 3. The Landlord's Agent conducted a recent inspection on December 15, 2023, but the rental unit was still cluttered.
 4. The rental unit is located in a community housing building for seniors.

5. The Landlord connected the Tenant with a social worker who assists tenants in the building. The Tenant refused to accept assistance from the social worker.
6. The Tenant has substantially interfered with the Landlord's reasonable enjoyment of the residential complex by hoarding items in the rental unit.
8. The Tenant did not stop the conduct or activity within seven days after receiving the N5 notice of termination. The Landlord's Agent testified that the Landlord conducted an inspection within the seven-day voiding period after the N5 Notice was served and there was no change in the hoarding. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).
9. For the above reasons, I find that the Tenant substantially interfered with the Landlord's reasonable enjoyment of the residential complex by failing to maintain the rental unit in an ordinary state of cleanliness. I am satisfied that the Tenant's failure to do so substantially interfered with the Landlord's rights, interests, or privileges. The Tenant's failure to maintain the rental unit in an ordinary state of cleanliness prevents the Landlord's contractors from doing renovation work and pest treatment in the rental unit and is a potential fire hazard.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. There is no last month's rent deposit.
12. 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 not be unfair to postpone the eviction until February 29, 2024 pursuant to subsection 83(1)(b) of the Act.
13. The Landlord's Agent testified that she had received numerous complaints about cockroaches from tenants adjacent to the rental unit and believes the cockroaches are coming from the rental unit.
14. The Landlord's Agent contacted the Tenant seven days before the hearing to remind him about it and a different employee of the Landlord reached out to the Tenant to assist him in participating in the hearing. Despite the Landlord's efforts to assist the Tenant, he was not present. The Landlord's Representative had been open to negotiating an order granting conditional relief from eviction if the Tenant had attended.
15. The Landlord's Agent also testified that the Tenant has addiction issues and may be involved in criminal activity. According to the Landlord's Agent, other tenants in the building are afraid of the Tenant. Interacting with the Tenant causes them undue stress.
16. Given the Tenant's lack of cooperation with the Landlord and his behaviour disturbing other tenants in the building, I find it appropriate to terminate the tenancy. However, given the nature of the application and the Landlord's willingness to have negotiated a settlement had the Tenant shown up, I find it would not be unfair to postpone the eviction until February 29, 2024.

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 February 29, 2024.
2. If the unit is not vacated on or before February 29, 2024, then starting March 1, 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 March 1, 2024.
4. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before February 29, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 1, 2024 at 7.00% annually on the balance outstanding.

January 29, 2024

Date Issued

Kate Sinipostolova

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 September 1, 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.