



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

Citation: Elia v Richard, 2024 ONLTB 12817

Date: 2024-02-20

File Number: LTB-L-079653-23

In the matter of: BACK ROOM, 1110 DUFFERIN ST TORONTO
ON M6H4B6

Between:

Antonios Elia Landlord

And

Verlan Richard Tenant

Antonios Elia (the 'Landlord') applied for an order to terminate the tenancy and evict Verlan Richard (the 'Tenant') 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 and the act or omission occurred in the residential complex;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises.

This application was heard by videoconference on February 5, 2024.

The Landlord, Landlord's support George Millionis, and the Landlord's witness, Beena Mendu ("BM") attended the hearing.

As of 11:27 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. Daily compensation was not requested in the application or at the hearing. Therefore, the tenancy will be terminated on March 9, 2024, and daily compensation will not be ordered.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N7 Notice of Termination

On October 7, 2023, the Landlord gave the Tenant an N7 Notice of Termination deemed served on October 7, 2023, with a termination date of October 18, 2023. The notice of termination contains the following allegations: that the Tenant seriously impaired the safety of another Tenant in the residential complex by threatening her with a knife; and also caused wilful damage to a shower curtain in the residential complex, which is the Landlords' property.

3. The residential complex is a house with three residential units and shared common areas such as the kitchen, bathroom and laundry room.
4. Three tenants occupy the residential units, including the Respondent to this application.
5. The Landlord's witness is a Tenant in the residential complex.

Serious Impairment of Safety

6. BM testified that on July 4, 2023, she sent an email to the Landlord who was on vacation regarding an argument that occurred between her and the Tenant. The argument was over water being on the bathroom floor and BM asking the Tenant to clean up the water. BM stated that two days later, the shower curtain had been ripped down.
7. After discussing the shower curtain with the other tenant in the residential complex, BM questioned the Tenant about what happened. BM testified that the Tenant started an argument and started throwing their belongings around the residential complex.
8. BM also testified that the argument came to a point where she felt the need to call the police. She stated that the police advised her it was a landlord and tenant matter.
9. BM further testified that on September 27, 2023, a friend came over to help her with laundry and the Tenant knocked on her unit door. When BM opened the door, the Tenant was standing there with a knife asking, "why did you turn out the light?", referring to the lights in the laundry room that had been turned off.
10. BM stated that the Tenant did not directly threaten to harm her, however, she was pointing the knife at her face, insinuating harm. BM asked her to put the knife down multiple times, however the Tenant continued to have it near her face.

11. Although BM testified that the Tenant did not make direct threats to cause harm with the knife, she felt fearful for her safety, due to the Tenants behaviour and other confrontational incidents that occurred between them.
12. BM indicated that she immediately contacted the Landlord as she was afraid for her safety. She did not contact police as the Landlord was not on vacation and was previously told it was a landlord and tenant matter.
13. The Landlord submitted evidence regarding N5 Notices of Termination (Exhibit #1) that were also served on the Tenant claiming substantial interference of reasonable enjoyment. The N5 notices were not included in the application and not before me.
14. BM testified that in addition to the incidents above, the Tenant has threatened her and the other tenant multiple times by calling them witches, making racial comments, calling names, and starting fights with them. She stated that when her and the other tenant are cooking that the Tenant would spray stuff in the kitchen.
15. BM testified that the Tenant would talk to her and the other tenant some days and that other days she would call them names and threaten to take court action against them, but never made any verbal threats to cause harm.
16. BM stated that although the Tenant has not made specific threats, the Tenant continuously makes comments insinuating threats such as “you will see what happens to you in a week”, however no evidence or testimony was presented to indicate that any actions ever came of the threats fruition, and it was not clear what the Tenants’ threats were intending specifically.
17. In my view, it appears that except for the knife incident, that occurred on September 27, 2023, the majority of the behaviours included in the N7 notice, described by the Landlord and testified to by BM, are more appropriately considered as substantial interference of the reasonable enjoyment of the residential complex.
18. However, I must determine whether the knife incident meets the test for serious impairment of safety contained in section 66 of the Act.

66 (1) A landlord may give a tenant notice of termination of the tenancy if,

(a) an act or omission of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant seriously impairs or has seriously impaired the safety of any person; and

(b) the act or omission occurs in the residential complex.

19. In *2276761 Ontario Inc. v. Overall*, 2018 ONSC, the Divisional Court made it clear that serious impairment of safety included both actual impairment and a real risk of impairment.

20. Further, in *Furr v. Courtland Mews Cooperative Housing Inc.* 2020 ONSC 1175, the Divisional Court confirmed that a threat can constitute a serious impairment of safety if the person making the threat has a clear intention of carrying it out.
21. I am satisfied the Tenants' conduct on September 27, 2023, seriously impaired BM's safety. The Tenant exposed the knife towards BM and held it near her face. BM stated she was fearful of her safety.
22. While the Tenant made no direct threats to cause harm to BM on this occasion, I find it reasonable that there was an implied threat of harm made by the Tenant given the manner she held the knife and the incident has a potential for an outcome that would substantially and negatively effect BM's well-being. I also find the Tenants' conduct to be a foreseeable act or omission that could result in or may result in a serious impairment to safety. Therefore, I am satisfied that the Tenants' conduct meets the test of serious impairment of safety pursuant to s. 66 of the Act.

Undue Damage

23. The Tenant has wilfully caused undue damage to the residential complex by deliberately ripping down the shower curtain in the common bathroom of the residential complex.
24. BM testified that although she did not see the Tenant rip the shower curtain down, she spoke to the other tenant who did not know what happened to it either, and stated that she believed it was the result of an argument between the tenants about water being on the floor of the bathroom.
25. Based on the uncontested testimony of BM regarding the Tenants aggression and temperament, I am satisfied that even though the damage was not significant, the damage was undue.

Daily compensation and last month's rent deposit

26. Daily compensation was not requested in the application or at the hearing; and therefore, will not be ordered.
27. The Landlord is not in possession of a last month's rent deposit, therefore no interest is owing to the Tenant.
28. 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 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 and the Tenant must vacate the residential unit on or before March 9, 2024.
2. The Tenant shall also pay to the Landlord \$201.00 for the cost of filing the application.
3. If the Tenant does not pay the Landlord the full amount owing on or before March 9, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 10, 2024 at 7.00% annually on the balance outstanding.
4. If the unit is not vacated on or before March 9, 2024 then starting March 10, 2024 the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
5. 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 10, 2023.

February 27, 2024

Date Issued

Christina Philp

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 10, 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.