



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

Citation: Pathway Non Profit v Alveranga, 2024 ONLTB 1009

Date: 2024-01-03

File Number: LTB-L-070422-22

In the matter of: 309, 3420 THE COLLEGEWAY
MISSISSAUGA ON L5L5T2

Between: Pathway Non Profit Landlord

And

Kaijah Alveranga Tenant

Pathway Non Profit (the 'Landlord') applied for an order to terminate the tenancy and evict Kaijah Alveranga (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 Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

Pathway Non Profit (the 'Landlord') **also** applied for an order requiring Kaijah Alveranga (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, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was heard by videoconference on November 30, 2023.

Only the Landlord's agent Kenrick Wright ('K.W') and Landlord's legal representative D. Berezowka attended the hearing.

As of **9:54 a.m.**, 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 application is granted.

2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On November 23, 2023, the Landlord gave the Tenant an N5 notice of termination deemed served on November 11, 2023. The N5 notice alleges both substantial interference under section 64 of the *Residential Tenancies Act, 2006* (the 'Act') and wilful or negligent damage to the rental unit or residential complex under section 62 of the Act.

Substantial Interference

4. The N5 Notice specifies that on October 30, 2022, at approximately 10:30 p.m., the building superintendent received a call from the Emergency Answering Line regarding the Police presence in the lobby of the residential complex. The Police officers confirmed that someone had smashed the window in the lobby. Both the building staff and the Police secured the video surveillance footage and discovered that it was the Tenant's guest who smashed the lobby window on October 30, 2022.
5. Pursuant to section 64(3) of the Act, the Tenant had seven days from the date of receiving the N5 notice to void the notice. The voiding period ran from November 24 to November 30, 2023. I find that the Tenant stopped the conduct or activity or corrected the omission within seven days after receiving the N5 notice of termination. The Landlord gave no evidence that the Tenant engaged in similar conduct during the voiding period. Therefore, I find that the substantial interference portion of the N5 notice is void.

Wilful or Negligent Damage

6. The N5 Notice states that the behaviour described above caused an estimated \$3,008.28 in damage to the property.
7. During the hearing, K.W, the Superintendent of the building, testified that on October 31, 2022, the Tenant called the building management office requesting her lock key to be changed. K.W. testified that the Tenant told them that the person who smashed the window in the lobby on October 30, 2022, was her brother. K.W. testified that on October 30 and 31, 2022, he inspected the rental unit twice. K.W. testified that he discovered that the Tenant had smashed the living room windows, bedroom windows, and damaged the unit door as well. The Landlord's legal representative submitted an invoice for the repair of the lobby window, the rental unit windows, and the unit door, totaling \$3,033.28, including HST, as evidence during the hearing. The invoice states that the damage occurred in the rental unit and lobby. Additionally, the Landlord's legal representative submitted photos and screenshots of the October 30, 2022, incident and the unit inspection on October 30 and 31, 2022, as evidence during the hearing.
8. Based on the Landlord's uncontested evidence, I find, on a balance of probabilities, that the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises. The Tenant did not repair the damage, pay the Landlord the reasonable costs to repair the damage or make arrangements satisfactory to the Landlord within seven days after receiving the N5 notice of termination. Therefore, the Tenant did not void the N5 notice of termination in accordance with section 62(3) of the Act.

Compensation for damage and daily occupation

9. Based on the Landlord's uncontested evidence, I am also satisfied on a balance of probabilities that the Landlord has incurred or will incur \$3,033.28, which is the reasonable cost of repairing or replacing the damaged property.
10. The Tenant was required to pay the Landlord \$2,569.51 in daily compensation for use and occupation of the rental unit for the period from January 1, 2023, to November 30, 2023.
11. Based on the Monthly rent, the daily compensation is \$7.69. This amount is calculated as follows: \$234.00 x 12, divided by 365 days.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
13. The Landlord collected a rent deposit of \$234.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$8.45 is owing to the Tenant for the period from December 14, 2020, to November 30, 2023.
14. 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.

Relief from eviction

15. 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 January 31, 2024 pursuant to subsection 83(1)(b) of the Act.
16. During the hearing, K.W. testified that the residential complex is a non-profit social housing building with 132 units, mostly occupied by families and seniors. K.W. testified that the Tenant moved in on December 14, 2020, and the Landlord is not aware of any circumstances related to the Tenant that may cause the Board to deny or delay the eviction. Additionally, K.W. mentioned that the Tenant may have a 7-year-old daughter who lives with her, but the Landlord has not seen the daughter in the building for a while because the Tenant frequently 'comes and goes' from the unit. At the hearing, the Landlord's legal representative submitted that the Landlord is willing to provide the Tenant with additional time to find a new rental place and proposed postponing the eviction until 2024. As noted, the Tenant did not attend the hearing of this matter and thus I did not have the opportunity to hear the evidence regarding the Tenant's circumstances or to dispute the Landlord's application for an eviction order, I see no reason not to grant the Landlord's request.

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 January 31, 2024.
2. If the unit is not vacated on or before January 31, 2024, then starting February 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 February 1, 2024.
4. The Tenant shall pay the Landlord \$2,569.51 as compensation for using the unit from January 1, 2023, to November 30, 2023. The Landlord shall deduct any rent payments made by the Tenant from this amount.
5. The Tenant shall also pay the Landlord compensation of \$7.69 per day for the use of the unit starting December 1, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall pay to the Landlord \$3,008.28, which represents the reasonable costs of repairing the damage AND replacing the damaged property.
7. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
8. The Landlord owes \$242.45 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.
9. The total amount the Tenant owes the Landlord is \$5,521.34.
10. If the Tenant does not pay the Landlord the full amount owing on or before January 31, 2024, the Tenant will start to owe interest. This will be simple interest calculated from February 1, 2024 at 7.00% annually on the balance outstanding.

January 3, 2024

Date Issued

Joy Xiao

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 August 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.