



Order under Section 69 Residential Tenancies Act, 2006

Citation: Grow Ontario Property Management Inc v Setzkorn, 2024 ONLTB 30551

Date: 2024-04-26

File Number: LTB-L-057220-23

In the matter of: C, 7 GROSVENOR AVE S HAMILTON
ON L8M3K8

Between: Grow Ontario Property Management Inc Landlord

And

Earl Setzkorn Tenant

Grow Ontario Property Management Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Earl Setzkorn (the 'Tenant') because:

- the Landlord requires vacant possession of the rental unit in order to do major repairs or renovations to the unit.

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 April 18, 2024.

The Landlord 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.

Determinations:

1. Since the Landlord did not attend the hearing to support their application, I find that this application has been abandoned.
2. I note that this was an application based on an N13 notice of termination.
3. I note also that the Landlord has submitted in total 8 applications in relation to this residential complex.
4. I note that to date, 3 applications to date were also abandoned: LTB-L-057232-23; LTB-L057228-23; LTB-L-071778-23.
5. I note that the remaining 4 applications are also scheduled to be heard on May 6, 2024, and May 13, 2024.

6. Given that 4 of the 8 are dismissed as abandoned, it is likely this is indicative that the remaining 4 applications are likely to be dismissed as abandoned.
7. The Board's Guideline 3, entitled Costs permits the Board to order Board costs where a party or their legal representative are responsible for unreasonable conduct.

In those rare situations in which a party or their agent or legal representative is responsible for unreasonable conduct, this power allows the Board to accomplish two objectives:

Recover some of the public's monies which funded the proceedings, and;
Discourage inappropriate practices and conduct by parties and parties' agents and legal representatives.

8. In relation to this application and the 3 related applications that have been dismissed as abandoned, the applicant and their legal representative have acted unreasonably in not taking the necessary steps to withdraw their applications in advance of the hearings, or even before they were scheduled if there was no genuine intent to pursue them at the LTB. The Board expects parties and their paid representatives to act reasonably in pursuing their applications. This includes bringing applications only when there are substantial grounds.
9. The LTB has expended time and resources to schedule and hear the applications and issue orders; all of which would have been unnecessary had they been withdrawn in a timely manner. This is precious hearing time lost, that could have been taken up by an application that has been waiting to be scheduled. This is particularly egregious when taking note of the backlog at the Board.
10. I am satisfied that an order for Board costs is appropriate in cases in which the adjudicative costs to the public have been unjustifiably increased by the unreasonable conduct or omission of a party or a party's agent or legal representative. The Landlord shall be ordered to pay Board costs in the amount of \$400.00. This amount represents the costs of the 4 applications that have been abandoned thus far.
11. In accordance with section 196 of the RTA and Rule 6 of the Rules of Practice, failure to pay costs ordered to be paid to the Board may result in the Board refusing to allow the filing of an application; a stay in proceedings; a delay in the issuance of an order; and/or a discontinuance of the proceeding. See Rule 6 "Refusal to Accept or Continue to Process an Application" for further details.

It is ordered that:

1. The Landlord's application is dismissed.
2. The Landlord Grow Ontario Property Management Inc shall pay Board costs in the amount of \$400.00.

April 26, 2024
Date Issued

Robert Patchett
Vice Chair, 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.

