



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

Citation: Boutzios v Glonczi, 2024 ONLTB 731

Date: 2024-01-31

File Number: LTB-L-065446-22

In the matter of: 202, 1004 O'CONNOR DR
EAST YORK ON M4B2T3

Between: Voula Boutzios Landlord

And

Gergo Glonczi Tenants
Cintia Bozik

Voula Boutzios (the 'Landlord') applied for an order to terminate the tenancy and evict Gergo Glonczi and Cintia Bozik (the 'Tenants') because:

- the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has wilfully or negligently caused damage to the premises.
- the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has substantially interfered with another Tenant's or the Landlord's reasonable enjoyment of the residential complex, lawful rights, privileges, or interests.

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

Voula Boutzios (the 'Landlord') also applied for an order requiring Gergo Glonczi and Cintia Bozik (the 'Tenants') 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 Landlord alleges that the damage was caused wilfully or negligently by the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex.

This application was heard by videoconference on November 14, 2023.

Only the Landlord's Agent, H. Boutzois and their Legal Representative, P.M. Karimalis attended the hearing.

As of 12:33 p.m., the Tenants 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:

Preliminary Issue – Amendments to the L2 Application

1. The Landlord requested to amend the application to reflect the correct rent of \$1486.25 as of the date of the application which was November 14, 2022. As per the Landlord's certificate of service, the amended L2 application was served on the Tenants on November 6, 2023.
2. The Landlord also requested to amend the L2 application to reflect the correct amount being claimed in damages which is \$3,503.59.
3. Based on the Landlord's uncontested testimony that they served the amended application on the Tenants on November 6, 2023, I allowed the requests to amend the amount of rent being claimed. The Landlord also requested to amend the application to amend the out-of-pocket expenses for damages being sought in the application. I grant the request to amend the application to update the out-of-pocket expenses for damages.

Background

4. 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.
5. On October 11, 2022, the Landlord served the Tenants with an N5 Notice to end the tenancy for substantially interfering with other Tenants' and the Landlord's reasonable enjoyment of the residential complex, lawful rights, privileges or interests. The N5 Notice also claimed that the Tenants, their occupants, or their guests either wilfully or negligently caused damage to the residential premises. The date of termination of the tenancy in the notice was November 3, 2022. I am satisfied that the first N5 Notice was properly served and complied with section 64 of the *Residential Tenancies Act, 2006* (the 'Act').
6. The N5 Notice indicated that the Tenants has substantially interfered with other Tenants' or the Landlord's reasonable enjoyment of the residential complex, lawful rights, privileges or interests and wilfully or negligently causing damage by:
 - a. Covering the kitchen cabinetry and refrigerator in adhesive paper;
 - b. Wallpapering the unit;
 - c. Removing the toilet paper dispenser from the bathroom wall;
 - d. Damaging or tampering with the smoke detector;
 - e. Failing to secure the Tenants' pets during an inspection which took place on October 8, 2022 between 10:00 a.m. and 12:00 p.m.;

- f. Allowing the Tenants' dog to wander the hallways of the residential complex without a leash causing a health and safety concern for other Tenants;
 - g. On October 8, 2022 between 10:00 a.m. and 12:00 p.m., allowing or creating excessive and slamming doors at all hours of the night in such a manner that it that interfere with other Tenants' reasonable enjoyment of the residential premises.
7. The Landlord filed this L2 application with the Board on November 14, 2022. The Tenants were in possession of the rental unit on the date the application was filed and remained in possession of the rental unit as of the date of the hearing.
 8. The first N5 Notice gave the Tenants an opportunity to void the notice within 7 days from October 11, 2022 to October 18, 2022 by repairing or replacing damage to the residential unit and ceasing the behaviour above. I find that the Tenants did not void the N5 Notice based on the Landlord's uncontested evidence below.
 9. The Landlord led evidence that the Tenants, their occupants or guests had substantially interfered with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another Tenant or substantially interferes with another lawful right, privilege or interest of the landlord or another Tenant. For the reasons below, I find that the Tenants voided this portion of the application pursuant to s. 64(3) of the Act.
 10. The Tenants caused wilfully undue damage to the rental unit and 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. The Tenants did not void the N5 notice of termination in accordance with section 62(3) of the *Residential Tenancies Act, 2006 (Act)*.

Substantial Interference with Reasonable Enjoyment or Lawful Interest, Rights or Privileges of the Landlord or Other Tenants

11. The Landlord testified that on October 6, 2022 between 11:00 am and 11:30 a.m. and from 3:00 p.m. to 4:00 p.m., the Tenants' dog was wandering the hallways unleashed and with no supervision causing a health and safety concern for other Tenants. The Landlord testified that again on October 7, 2022 between 4:00 p.m. and 4:30 p.m., the Tenants' dog was wandering the hallway again unleashed and without supervision. There was no evidence led at the hearing that the Tenants had continued the behaviour of allowing their dogs to wander the hallways without supervision during the remedy period of October 11, 2022 to October 18, 2022 as per the N5 notice of termination. I am therefore satisfied that the Tenants voided that portion of the N5.
12. The Landlord led evidence that on October 6, 2022 between 12:00 p.m. and 1:00 p.m., the Tenants were served with a notice of entry for an inspection to take place on October 8, 2022 between 10:00 a.m. and 12:00 p.m., requesting that the Tenants' dogs be secured during the inspection. The Landlord submits that the Tenants' dog was not leashed during this unit inspection as per the Landlord's request. While the Landlord led evidence that the Tenants' dog was not leashed during the inspection, there were no submitted incidents in which the Landlord requested to enter the unit between October 11, 2022 and October 18,

2022 and the dog was unleashed during that remedy period specified in the N5 notice of termination. I am therefore satisfied that the Tenants voided that portion of the N5.

13. For the reasons above, I find that the Landlord has not met the burden of proof in establishing that the Tenants, their occupants or their guests interfered with the reasonable enjoyment, lawful rights, privileges and interests of the Landlord or other Tenants.

Wilful or Negligent Behaviour Causing Undue Damage to Residential Complex

14. The Landlord submitted at the hearing that they had inspected the unit on September 10, 2022 between 10:00 a.m. and 12:00 p.m. and noted that the kitchen cabinetry and fridge had been covered in adhesive paper, the unit had been wallpapered, and the toilet paper dispenser was missing from the bathroom wall. The Landlord testified that they had requested that the Tenants remove the wallpaper from the unit and adhesive paper from the cabinetry and fridge, and replace the missing toilet paper dispenser. The Landlord testified that the adhesive paper was administered by the Tenants, their occupants, or their guests and had caused damage to the walls, cabinetry, fridge and toilet paper dispenser.
15. At the hearing, the Landlord submitted that the Tenant caused wilful and undue damage to the rental unit by wallpapering the kitchen cabinetry and fridge. The Landlord also submitted that the Tenant had forcibly removed the toilet paper dispenser from the wall and damaging the smoke detector in the unit. The Landlord submitted photo evidence which was supported by the Landlord's verbal testimony at the hearing. All of this damage occurred in the rental unit. In the absence of evidence to the contrary, I am prepared to draw an inference in the circumstances that the damage was caused by the Tenants, their occupants or their guests and that it was done so wilfully.
16. The Landlord submitted that during an inspection on October 8, 2022 between 10:00 a.m. and 12:00 p.m., the Landlord discovered that the Tenants, their occupants, or their guests had caused damage to the smoke detector and had failed to remove the adhesive paper from the cabinetry and fridge, the unit was still covered in toilet paper, the toilet paper dispenser was still missing from the bathroom wall.
17. The Landlord also submitted that on June 19, 2023, a unit inspection was conducted and it was found that the Tenant had caused wilful and undue damages to the bathtub tiles, bathroom floor tiles, and the bathroom door handle.
18. The Landlord submitted that on July 22, 2023, the Landlord conducted an inspection and had found that the tenant had wilfully caused damages to the living room window screen by ripping the screen.
19. The Tenant did not stop the conduct or activity within seven days after receiving the N5 notice of termination. The Landlord's employee inspected the rental unit on May 13, 2023, after the voiding period. The Tenant did not repair the damaged property or pay the amount estimated to repair the damaged property. Upon inspection on May 13, 2023, the kitchen cupboards and fridge were still covered in adhesive paper. Further, the toilet paper dispenser had still not been replaced in the unit. Therefore, the Tenant did not void the N5 notice of termination in accordance with s. 62(3) of the Act.

20. The Landlord submitted estimates to replace the toilet paper dispenser in the amount of \$92.63 on Amazon, \$92.63 to purchase a similar toilet paper dispenser from Walmart, and \$109.29 to replace the toilet paper dispenser with a similar dispenser from Amazon. Based on the uncontested evidence of the Landlord, I find that the Tenants caused wilful and undue damage to the toilet paper dispenser. I find that the reasonable out-of-pocket expenses that the Landlord will incur to replace the toilet paper dispenser is \$92.63 plus tax which is \$104.67.
21. The Landlord submitted estimates to replace the refrigerator in the amounts of \$895.00 from The Home Depot, \$906.50 from Wayfair, and \$794.00 from The Home Depot, and \$450.00 for a used model from Kijiji. Based on the uncontested evidence of the Landlord, I find that the wilful wallpapering of the fridge by the Tenants, their occupants, or guests caused undue damage. I find that the reasonable out-of-pocket expenses that the Landlord will incur to replace the refrigerator is \$794.00 plus tax which is \$450.00 based on the Kijiji advertisement.
22. The Landlord submitted a price estimate for a new smoke detector from The Home Depot in the amount of \$39.97. Based on the uncontested evidence of the Landlord, I find that the Tenants, their occupants or guests wilfully caused undue damage to the smoke detector. I find that the reasonable out-of-pocket expenses that the Landlord will incur to replace the smoke detector is \$39.97 plus tax which is \$45.17.
23. The Landlord submitted an estimate to remove wallpaper from Pro Painting in the amount of \$2,260.00. As I have previously found that the Tenants caused wilful and undue damage to the walls, cabinetry, and fridge, I find that it would not be unreasonable to grant these costs.
24. The Landlord submitted a receipt at the hearing to replace the bathroom door handle in the amount of \$20.53 plus tax, I find that the reasonable out-of-pocket expense that the Landlord incurred as a result of the Tenant's wilful conduct is \$20.53 plus tax which is 23.19.
25. The Landlord also submitted an invoice dated June 19, 2023 from Five Brothers Construction in the amount of \$125.00 to repair files in the bathtub tiles and re-caulk the bathtub as a result of the Tenant's wilful damage to the rental unit. I find that the Landlord incurred the reasonable out-of-pocket expenses of \$125.00 to repair tiles in the bathtub and re-caulk the bathtub.
26. The Landlord also submitted that an estimate for an estimate for replacing the bathroom floor tiles from the Home Depot in the amount of \$150.74. I find that the Landlord's reasonable out-of-pocket expenses for the tiles is \$150.74 plus tax which is \$170.33.
27. The Landlord purchased a new window screen in the amount of \$20.72 after tax. I find that based on the landlord's receipt for the new window screen that the Landlord incurred the reasonable out-of-pocket expense of \$20.72 to replace the broken window screen.
28. The Tenants were required to pay the Landlord \$18,371.36 in daily compensation for use and occupation of the rental unit for the period from November 4, 2022 to November 14, 2023, less any amount already paid.

29. Based on the Monthly rent, the daily compensation is \$48.86. This amount is calculated as follows: \$1,486.25 x 12, divided by 365 days.
30. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
31. The Landlord collected a rent deposit of \$1,450.00 from the Tenants and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$58.12 is owing to the Tenants for the period from October 1, 2021 to November 14, 2023.
32. 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.
33. For the foregoing reasons, I am satisfied that the Tenants, another occupant of the rental unit or a person whom the Tenants permitted in the residential complex wilfully or negligently caused undue damage to the rental unit or residential complex. I further find that the Landlord has incurred or will incur out-of-pocket expenses as a result of the Tenants' breaches in the amount of \$3,199.08, which I accept are reasonable.

Section 83 Considerations for Relief from Eviction

34. 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 for the reasons below.
35. On April 25, 2023 at 7:38 p.m. and again on May 11, 2023 at approximately 2:27 p.m., the Landlord received text messages from former Tenants who lived directly below the Tenants alleging that the Tenants were interfering with their reasonable enjoyment by creating excessive noise.
36. On May 13, 2023 between 10:00 a.m. and 12:00 p.m., the Landlord conducted another inspection of the unit and noted that the kitchen cabinetry and fridge were still covered in adhesive paper, the walls had been painted in the kitchen without the Landlord's consent, and the toilet paper dispenser was still missing from the bathroom wall.
37. On June 13, 2023, the Tenants' dog was observed wandering the hallways of the residential complex and urinating. As this was hearsay evidence, I did not give it much weight.
38. On June 21, 2023, the Tenants and their occupants or their guests had gathered in the common hallways of the building causing noise disturbances for other Tenants. As this was hearsay evidence, I did not give it much weight.
39. On July 3, 2023, the Tenants' dog was once again observed wandering unleashed in the hallways of the residential complex without supervision. As this was hearsay evidence, I did not give it much weight.
40. On August 23, 2023 and September 13, 2023, the Tenants, their occupants or their guests were observed obstructing access for people entering and leaving the building. As this was hearsay evidence, I did not give it much weight.

41. The Landlord submitted at the hearing that they had continuously received complaints from other Tenants that the Tenants and their guests or occupants were causing noise disturbances for other Tenants and obstructing entry ways. As this was hearsay evidence, I did not give it much weight.
42. Based on the Landlord's uncontested evidence, I find that the Tenant has wilfully caused significant damage to the rental unit. I also find that while the Tenants voided the portion of the application alleging substantial interference with the reasonable enjoyment and lawful rights, privileges and interest of other tenants or the Landlord, the Tenants have continued to behave in a manner that has substantially interfered with other tenants in the residential complex.
43. This order contains all of the reasons for my decision within it. No further reasons shall be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated. The Tenants must move out of the rental unit on or before February 11, 2024.
2. If the unit is not vacated on or before February 11, 2024, then starting February 12, 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 12, 2024.
4. The Tenants shall pay to the Landlord \$18,371.36, which represents compensation for the use of the unit from November 4, 2022 to November 14, 2023, less any amount already paid.
5. The Tenants shall also pay the Landlord compensation of \$48.86 per day for the use of the unit starting November 15, 2023 until the date the Tenants moves out of the unit, less any amount already paid.
6. The Tenants shall pay to the Landlord \$3,199.08, which represents the reasonable costs of repairing the damage or replacing the damaged property.
7. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
8. The Landlord owes \$1,508.12 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenants.
9. The total amount the Tenants owes the Landlord is \$20,248.32, less any amounts already paid.
10. If the Tenants do not pay the Landlord the full amount owing on or before February 11, 2024, the Tenants will start to owe interest. This will be simple interest calculated from February 12, 2024 at 7.00% annually on the balance outstanding.

January 31, 2024

Date Issued

Christopher Lin
Member, Landlord and Tenants 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 Tenants expires on July 15, 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.