



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

Citation: GREENBOARD HOLDINGS LTD v Bailey, 2024 ONLTB 2112

Date: 2024-01-12

File Number: LTB-L-002750-23

In the matter of: 104, 160 CHALKFARM DR
TORONTO ON M3L2J1

Between: GREENBOARD HOLDINGS LTD Landlord

And

Makeda Bailey Tenant

GREENBOARD HOLDINGS LTD (the 'Landlord') applied for an order to terminate the tenancy and evict Makeda Bailey (the 'Tenant') because:

- 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.

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

The Landlord also applied for an order requiring 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 December 12, 2023.

Only the Landlord's Legal Representative Jason Paine and the Landlord's Witness Mariela Tamayo attended the hearing.

As of 11:26am, 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. The Landlord's application is based on an N7 notice of termination given under s. 63(1)(a) of the *Residential Tenancies Act, 2006* served on November 28, 2022, with a termination date of December 27, 2022. The N7 Notice alleged that the Tenant's Occupant or Guest wilfully slammed the door of the Security Office two times into the adjacent wall causing damage to the residential complex.

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2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on September 22, 2023. As such, the application seeking to terminate the tenancy is moot. The only remaining issue before the Board is the Landlord's claim for compensation for undue damage made pursuant to s. 89(1) of the *Residential Tenancies Act, 2006*. For the reasons that follow, I find that the residential complex was damaged by the wilful or negligent conduct of the occupant of the rental unit.
4. In order for an application to succeed under s. 89(1) of the Act, a landlord must establish the following:
 - a. There was property damage to the rental unit or residential complex;
 - b. The damage is "undue" meaning that it is not normal wear and tear and that it is not insignificant; and
 - c. The damage was a result of wilful or negligent conduct by the tenant, guest or occupant.
5. If the Landlord establishes all of these elements the Board can award the reasonable cost of repair, or replacement costs if it is not reasonable for the damage to be repaired.
6. The Landlord's witness Mariela Tamayo testified that she has worked at 160 Chalkfarm Drive for 15 years. She currently holds the position of site manager. She testified that on November 19, 2022 an occupant of 104-160 Chalkfarm Drive damaged the wall of the security complex.
7. The Landlord's first exhibit was a video of the incident. While the video does have sound, it does not capture the sound of the people in the video talking. The video shows a woman at a counter speaking to two men who are behind a partition. A third man entered the room

through a door about halfway through the video. He is on the same side of the partition as the woman. At one point, the woman seems to become agitated and she pushed all of the papers that were on that counter onto the floor. The woman raises her hands and appears to speak animatedly to the two men behind the counter, as well as the man who entered the room. After speaking and gesturing for about 17 seconds, the woman left the room through a door. On her way out of the room, she slammed the door into the wall behind it twice.

8. Ms. Tamayo identified the location of the video as being the security office at 160 Chalkfarm Drive. She identified the woman in the video as an occupant of unit 104 at 160 Chalkfarm Drive and said that she had seen her before.
9. The Landlord's second exhibit was a security report of the incident. Ms. Tamayo testified to the contents of the report. She stated that the occupant of unit 104 had been in the security office seeking a parking pass for unit 104 but that the Landlord's policy was that the leaseholder had to be present to obtain a parking pass. When security told the occupant about this policy, the occupant became aggressive and slammed the security office door.
10. Ms. Tamayo testified that the occupant's actions damaged the wall in the security office. She stated that after the incident there was a big hole in the drywall. The Landlord's third and fourth exhibits were from Zgmei Inc., a contractor for the Landlord. Exhibit 3 was an estimate for repairs to the security office wall and Exhibit 4 was an invoice for the repairs.

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These exhibits showed that the wall needed to be plastered and painted to repair the damage. Ms. Tamayo testified that the Landlord has been working with this contractor for several years and that she finds their prices to be fair. She further testified that the Landlord paid the invoice for these repairs.

11. Based on the uncontested evidence before me, I find that the Landlord has proven that it is more likely than not that the occupant of unit 104-160 Chalkfarm Drive caused undue damage to the security office of 160 Chalkfarm Drive. The uncontested evidence clearly shows the occupant slamming the security office door into the wall twice after having an animated conversation with the men in the security office. I find this behaviour to be wilful. I find that the damage is undue damage. One would not expect a large hole to appear in a wall from normal wear and tear. I find that the damage is substantial in nature. The Landlord paid \$293.80 to repair this damage. I find this amount to be reasonable considering the damage to the wall.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of September 22, 2023.
2. The Tenant shall pay to the Landlord \$293.80, which represents the reasonable costs of repairing the damage.
3. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
4. The total amount the Tenant owes the Landlord is \$479.80.
5. If the Tenant does not pay the Landlord the full amount owing on or before January 23, 2024, the Tenant will start to owe interest. This will be simple interest calculated from January 24, 2024 at 7.00% annually on the balance outstanding.

January 12, 2024

Date Issued

Angela Long

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.