



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

Citation: Ottawa Community Housing Corporation v Pilon, 2024 ONLTB 17215

Date: 2024-03-20

File Number: LTB-L-006795-23

In the matter of: 812, 1455 HEATHERINGTON RD
OTTAWA ON K1V8Z3

Between: Ottawa Community Housing Corporation Landlord

And

Marlene Pilon Tenant

Ottawa Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Marlene Pilon (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.

Ottawa Community Housing Corporation (the 'Landlord') also applied for an order requiring Marlene Pilon (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 January 15, 2024.

Only the Landlord's agent Alyssa Cousineau, their witness, Jamie Ladouceur and their representative, Gabriel Cormier, attended the hearing.

As of 10:14 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 Tenancy will continue subject to conditions set out below:
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Landlord served an N5 Notice to End your Tenancy for Interfering with others, Damage or Overcrowding ('N5 Notice') on the Tenant on December 12, 2022. The N5 notice states that the reasons for the notice are summarized as follows:
4. On July 4th, 2022, July 19, 2022, August 2, 2022, and August 21, 2022, the unit below the rental unit complained of a leak from their ceiling into their living room.
5. On August 24, 2022, the property manager found that the leak to the unit below was coming from unit 812. The Tenant had a bucket under the air conditioner to collect water and the bucket was full of water and continued to flow and leak onto the unit below. The leak caused damaged to the drywall in the unit below and the rental unit.
6. The Landlord estimated it will cost \$565.00 to repair both units' dry wall.
7. The inspection on August 24, 2022, also revealed that the rental unit was unsanitary, extremely cluttered with garbage throughout the unit.
8. The Tenant had removed the door closer of the unit that operates to close slowly and prevents it from slamming shut that was recently installed and this has caused a loud banging of the door. The cost to replace the door closer is \$1,865.00.
9. The Tenant has also caused damage to the caulking surroundings of the bathtub, and the Landlord estimates the cost to repair the bathtub is around \$565.00.
10. Subsection 64(3) of the *Residential Tenancies Act, 2006* (the "Act") states that a tenant can void an N5 Notice by stopping the activities or correcting the described behaviour within seven days of being served with notice. Subsection 62(3) of the Act states that a tenant can void an N5 Notice by repairing the damaged property or paying the landlord the reasonable costs of repairing or replacing the damaged property if it is not reasonable to repair it. Subsection 62(3) also provides that the tenant can make satisfactory arrangements with the Landlord to repair the damaged property or to pay for the replacement of the damaged property.
11. In this case, the seven-day voiding period begins on December 13, 2022, and ends on December 19, 2022.
12. I find that the Tenant did not void the N5 Notice as they did not correct their behaviour or pay the amount listed on the N5 notice within the voiding period. The Landlord re-inspected the

unit on December 19th, 2023, and found that unit was still cluttered with garbage scattered everywhere.

13. The Landlord presented photographic evidence of extensive damage to the rental unit.
14. With respect to the drywall, the Landlord provided photographs of different areas of the walls that show the walls have been damaged and stained.
15. With regards to the doors, the Landlord testified that the door is a fire rated door, and one bathroom door was damaged. A photograph showed that the door closure was missing. Photographs showed that unit was littered with garbage and cluttered.
16. With regards to the bathtub, the Landlord testified that the caulking surrounding the bathtub was ripped off.
17. With respect to the general condition of the rental unit, the Landlord testified that the rental unit was dirty throughout. The Landlord's testimony was supported by photographs.
18. The Landlord submitted a quote from RC Construction dated April 12, 2023, in the amount of \$1,432.28 to replace the fire rated door and another invoice dated November 5, 2023, for the same amount and to replace the fire rated door.
19. The Landlord submitted a quote from Captial Condo Reno dated November 16, 2022, in the amount of \$989.15 to repair the drywall.
20. The Landlord submitted a quote from Glenroy Construction dated April 30, 2023, in the amount of \$577.08 to repair the bathroom ceiling.
21. Based on the uncontested evidence before me, I find that the Tenant willfully or negligently caused undue damage to the rental unit and that the damages could not have occurred from reasonable wear and tear. I also find that the amount the Landlord is seeking for compensation for the damage – \$2,995.00 – to be reasonable in the circumstances, because it is less than the total of the quotes the Landlord submitted for the various repairs. As such, the Landlord is entitled to this amount and my order will issue accordingly.
22. The Tenant was required to pay the Landlord \$11,058.15 in daily compensation for use and occupation of the rental unit for the period from January 13, 2023, to January 15, 2024.
23. Based on the Monthly rent, the daily compensation is \$30.05. This amount is calculated as follows: \$914.00 x 12, divided by 365 days.
24. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
25. There is no last month's rent deposit.
26. 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.

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 March 31, 2024.
2. If the unit is not vacated on or before March 31, 2024, then starting April 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 April 1, 2024.
4. The Tenant shall pay to the Landlord \$11,058.15, which represents compensation for the use of the unit from January 13, 2023, to January 15, 2024. The Landlord shall deduct from this amount any rent the Tenant has paid from the period beginning January 13, 2023.
5. The Tenant shall also pay the Landlord compensation of \$30.05 per day for the use of the unit starting January 16, 2024, until the date the Tenant moves out of the unit.
6. The Tenant shall pay to the Landlord \$2,995.00, 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 total amount the Tenant owes the Landlord is \$14,239.15 minus any rent the Tenant has paid for the period beginning January 13, 2023.
9. If the Tenant does not pay the Landlord the full amount owing on or before March 24, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 25, 2024, at 7.00% annually on the balance outstanding.

2024 ONLTB 17215 (CanLII)

March 20, 2024

Date Issued

Vinuri Sivalingam

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 October 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.