



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

**Citation:** RAKOCZI VILLA II. v Parvez Ahmed, 2024 ONLTB 21677

**Date:** 2024-03-27

**File Number:** LTB-L-042459-23

**In the matter of:** 204, 751 WOODBINE AVE TORONTO  
ON M4E3V5

**Between:** RAKOCZI VILLA II. Landlord

**And**

Kasam Parvez Ahmed Tenant

RAKOCZI VILLA II. (the 'Landlord') applied for an order to terminate the tenancy and evict Kasam Parvez Ahmed (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 Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex.

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

RAKOCZI VILLA II. (the 'Landlord') also applied for an order requiring Kasam Parvez Ahmed (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 23, 2024.

Only the Landlord's legal representative Leo Corsetti attended the hearing.

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 not proven on a balance of probabilities the grounds for termination of the tenancy nor the claim for compensation. Therefore, the L2 Application is dismissed.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N5 Notice of Termination

3. On April 5, 2023, the Landlord gave the Tenant an N5 notice of termination deemed served April 10, 2023. The notice of termination contains the following allegations:
  - On December 2, 2022, the Toronto Police Services exercised a search warrant for the Tenant's rental unit. The warrant was for the arrest of the Tenant's visitor/guest, Mr. Fareed Abdual (FA). When the police arrived, they broke down the door to the rental unit to arrest FA.
  - The Landlord paid \$1,169.55 to replace the door and \$250.00 to paint/prime.
  - The Tenant has substantially interfered with the Landlord's lawful right, interest, or privilege by causing the door to be broken and the Landlord to incur damages of \$1,419.55.
4. The Landlord called Ramon San Mateo to testify at the hearing. Mr. San Mateo has been a superintendent for six years. He described the building as having 92 units contained within.
5. Mr. San Mateo did not have any independent recollection of the incidents as alleged in the N5 Notice.
6. The Landlord also called Les Aykler to testify at the hearing. Mr. Aykler is the property manager, having managed the residential complex since 1990.
7. Mr. Aykler testified that on December 2, 2022, at around 9:00pm the Toronto Police Services came to the Tenant's unit with a search warrant in-hand. The police had trouble getting into the rental unit as FA was barricading himself within. The police had no choice but to break down the door to apprehend FA.
8. The door in question is a fire-rated door that is regulated by law. The estimate to replace the door was \$1,169.55, plus an additional \$250.00 for painting and primer. The Tenant has not paid the Landlord this amount as of the hearing date.

N6 Notice of Termination

9. On April 5, 2023, the Landlord gave the Tenant an N6 notice of termination deemed served April 10, 2023. The notice of termination contains the following allegations:
  - The Landlord alleges that the Tenant's visitor/guest, Mr. Fareed Abdual (FA) has committed an illegal act.
10. Further to his prior testimony, when discussing the N6 Notice, Mr. Aykler added that FA had been in the rental unit since June 30, 2022. He also suspects that the Tenant vacated the rental unit July 20, 2023, leaving FA in the rental unit alone.

11. Of note, no evidence was provided by Mr. Aykler about the nature of why FA was arrested.

Analysis

12. Section 62(1) of the Act states:

**62 (1)** A landlord may give a tenant notice of termination of the tenancy if the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex wilfully or negligently causes undue damage to the rental unit or the residential complex.

13. It is clear from the testimony of the witnesses that the damage was caused by the police, not the Tenant or FA.

14. In *TSL-75956-16-RV* a similar scenario occurred where a landlord brought an L2 application for damage involving police breaking down the door of a rental unit. Paragraphs 14-16 state:

“14. Equally important, here it was the police, not the Tenants, an occupant or a person permitted in the unit by the Tenants who caused the damage to the door and doorframe. There is no provision in the Act allowing for vicarious liability and, as stated above, there was no evidence that the Tenants refused entry to the unit to the police.

15. In my view had the Legislature contemplated a form of vicarious liability for tenants in these circumstances, such would have been clearly stated in the Act. In my view, a plain reading of subsection 89(1) clearly indicates that the drafters of the legislation contemplated no such form of liability.

16. Moreover, even if the Landlord proved that the police broke down the door, since the police were not an occupant or individuals permitted in the complex by the Tenants, the Landlord did not prove a further requirement under subsection 89(1) of the Act to establish that the Tenants are responsible for repairing or paying the cost of repairing the damaged door and door frame.”

15. I concur with the analysis provided in *TSL-75956-16-RV*. Neither the Tenant, nor FA, were the individuals who broke the door to the rental unit. The Landlord led no evidence from the police that the actions of the Tenant, or FA, caused the police to cause damage to the door other than hearsay from Mr. Aykler. I am left uncertain as to whether there is anything the Tenant could have done to prevent the damage from occurring.

16. *TEL-83430-17-RV* states at paragraph 22:

“22. Although the damage caused by the police is unfortunate and clearly impacts an interest of the Landlord’s, the police caused the damage, and they were not in the unit as the Tenants’ guests. They were there subject to a warrant which is an order requiring the Tenants to let them in. All the Tenants did was comply. There is nothing the Tenants could have done to prevent the damage occurring as they did not have a key to the furnace room.”

17. I am not satisfied that the Tenant, or FA, wilfully or negligently caused damage. As a result, eviction will not be granted and no damage award will be made.
18. The Landlord is also trying to evict the Tenant based on an illegal act committed in the rental unit by FA. The Landlord's witnesses were unable to describe any incident that would be deemed illegal. The N6 Notice itself does not even identify the alleged illegal act. At the hearing, the Landlord's legal representative submitted that an illegal act must have occurred as FA was arrested in the rental unit. Merely being arrested by police does not constitute an illegal act as defined by the Act.
19. Therefore, the Landlord has not proven that the Tenant, an occupant of the Tenant's rental unit, has committed wilful or negligent damage. The Landlord has also not proven that the Tenant, or an occupant of the Tenant's rental unit, committed an illegal act in the rental unit.

**It is ordered that:**

1. The Landlord's application is dismissed.

**March 27, 2024**

**Date Issued**

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Brett Lockwood

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.