



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

Citation: Toronto Community Housing Corporation v Penasse, 2024 ONLTB 23143

Date: 2024-03-28

File Number: LTB-L-023477-23

In the matter of: 914, 250 DAVENPORT RD
TORONTO ON M5R1J8

Between: Toronto Community Housing Corporation Landlord

And

Tammy Penasse Tenant

Toronto Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Tammy Penasse (the 'Tenant') because:

- 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.

This application was heard by videoconference on February 1, 2024.

The following people attended the hearing:

The Landlord's legal representative, Travis King.

The Landlord's agent, Tiffany Lambert (TL).

A witness for the Landlord, DC Rajendra Persaud (RP).

As of 9:51am, 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 N6 notice given under subsection 61(1) of the *Residential Tenancies Act, 2006* (the 'Act'), served on the Tenant on March 9, 2023 by mail, with a termination date of April 9, 2023.
2. The allegations in the N6 notice are that the Tenant has committed an illegal act by assaulting other Tenants in the residential complex.
3. 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 as detailed below.
4. The Tenant was in possession of the rental unit on the date the application was filed.

N6 notice of termination:

5. The N6 notice is non-voidable which means that the Tenant does not have the opportunity to correct the behaviour that gave rise to the N6 notice.
6. The Landlord alleges that on December 12, 2021 the Tenant pushed her way into a neighbouring tenant's (victim 1) rental unit, pushed victim 1 to the ground, jumped on victim 1 and began punching them several times in the face. Victim 1 was transported to the hospital for treatment of the injuries.
7. On or about November 4, 2022 the Tenant was engaged in another assault on a different tenant (victim 2). The Tenant was in a hallway when victim 2 exited the elevators and the Tenant yelled at victim 2 that they owed the Tenant money. Victim 2 attempted to escape but was chased by the Tenant and eventually grabbed by the hair and the Tenant dragged victim 2 to the lobby yelling, "You better pay me or else..."
8. On November 15, 2022 the Toronto Police Services Division Major Crimes unit attended the residential complex and arrested the Tenant.

Landlord evidence

9. The Landlord submitted a document brief and produced a witness to provide testimony to support the Landlord's application.
10. The Landlord's agent TL also provided testimony in support of the Landlord's application.

11. The Landlord's evidence includes police report and prosecution summary documents that support the Landlord's claim of the Tenant assaulted two other tenants in the residential complex.
12. The Landlord witness, RP who was the lead investigator for the file and a 24-year veteran of the Toronto Police Department testified that he was the officer investigating the first incident on December 12, 2021 regarding the Tenant pushing her way in to victim 1's rental unit and the assault.
13. RP testified that he was the author of the police report that was filed after the December 12, 2021 incident.
14. RP testified that victim 1 was taken to St. Michael's Hospital for treatment as a result of the injuries sustained in the assault. Victim 1 had bruising on her face, hands and shoulders and the back of her head was swollen and bloodied.
15. Victim 1 attended the police station on November 15, 2022 and identified the accused in a photo line-up.
16. On November 15, 2022 victim 2 called the police to report she had been assaulted by a tenant in the residential complex. The Tenant threatened victim 2 and yelled "...you better pay me or else." The Tenant grabbed victim 2 by the hair and dragged her to the lobby.
17. The on-site security officer intervened and separated the victim and the Tenant.
18. Victim 2 identified the Tenant as the person who assaulted her.
19. On November 15, 2022 the Major Crime Unit attended the residential complex and arrested the Tenant and was later charged with assault.
20. With the evidence and submissions before me and on a balance of probabilities I find the Landlord has met the burden of proof to support the claim the Tenant has committed an illegal act in the rental unit or the residential complex.
21. The Landlord is requesting an order for eviction and the Landlord's request is granted.
22. The Tenant was required to pay the Landlord \$1,361.82 in daily compensation for use and occupation of the rental unit for the period from April 10, 2023 to February 1, 2024.
23. Based on the Monthly rent, the daily compensation is \$4.57. This amount is calculated as follows: \$139.00 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.

Relief from eviction

26. The Landlord's legal representative submitted the Tenant does not have any young children or persons with special needs living in the rental unit. The Landlord's legal representative submitted they were unaware of any other circumstances to delay or deny the eviction.
27. The Landlord's legal representative submitted that the safety of the other tenants in the residential complex is at risk given the Tenant's assault on two random victims.
28. I note the decision by the Divisional Court in *Joseph v. Toronto Community Housing Corporation*, 2013 ONSC 413, where the Divisional Court held that:

“In particular, the Board considered the well-being of the community as a whole and the tenants in that community take precedence over the individual's rights to ask for relief from forfeiture in the circumstances. The Board was entitled to so conclude (see *Metropolitan Housing Authority v. Owusu-Ansah*, [1995] O.J. No. 3864)”
29. I find it reasonable that the other tenants in the residential complex would be fearful of the Tenant given the randomness of the Tenant's actions and the fact there were two assaults on two different tenants in the residential complex.
30. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and in the absence of the Tenant to provide her own submissions, I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
31. I have considered all of the evidence presented at the hearing and all of the oral testimony and although I may not have referred to each piece of evidence individually or referenced all of the testimony, I have considered it when making my determinations.
32. This order contains all reasons for the determinations and order made. No further reasons will be issued.

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 April 8, 2024.
2. If the unit is not vacated on or before April 8, 2024, then starting April 9, 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 9, 2024.

4. The Tenant shall pay to the Landlord \$1,361.82, which represents compensation for the use of the unit from April 10, 2023 to February 1, 2024.
5. The Tenant shall also pay the Landlord compensation of \$4.57 per day for the use of the unit starting February 2, 2024 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The total amount the Tenant owes the Landlord is \$1,547.82.
8. If the Tenant does not pay the Landlord the full amount owing on or before April 8, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 9, 2024 at 7.00% annually on the balance outstanding.

March 28, 2024

Date Issued

Greg Brocanier

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 9, 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.