



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

Citation: Mercier v Gauthier, 2024 ONLTB 22764

Date: 2024-03-27

File Number: LTB-L-000569-24

In the matter of: 8, 60 CHURCH ST
PARRY SOUND ON P2A1Y7

Between: Ryan Mercier Landlord

And

Tiffany Gauthier Tenants
Darcy Pawis

Ryan Mercier (the 'Landlord') applied for an order to terminate the tenancy and evict Tiffany Gauthier and Darcy Pawis (the 'Tenants') because:

- the Tenants, another occupant of the rental unit or a person the Tenants permitted in the residential complex have seriously impaired the safety of any person and the act or omission occurred in the residential complex.

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

This application was heard by videoconference on February 12, 2024.

Only the Landlord and the Landlord's Representative Kelly Draycott attended the hearing.

As of 1:30pm, the Tenants were 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. Therefore, the Tenants must vacate the rental unit by April 7, 2024.
2. The Tenants were in possession of the rental unit on the date the application was filed.
3. On December 6, 2023, the Landlord gave the Tenants an N7 notice of termination deemed served on December 11, 2023 with a termination date of December 27, 2023. The N7 notice alleges that the Tenants have seriously impaired the safety of another person in the residential complex, specifically that on December 3, 2023 at 5:30am "the OPP was called to your unit as there was a lot of noise disturbing other tenants. As a result of the

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investigation gun shots were fired from your unit upwards entering the upstairs unit. As a result, your guest was charged. Incident number E231601506.”

4. At the hearing, the Landlord testified to what happened that day. He claimed there was a party in rental unit that was going into the early hours of the morning and there was a lot of drug and alcohol use and a firearm was discharged. It went through the ceiling of 8 into 5 above and exited the roof of the building. The Landlord became aware of this incident when the police called him and informed him about it. Tim Squirrel, the impacted tenant, also called the Landlord about it that morning. From his recollection, Mr. Squirrel was very shook up about what happened and he told him that the ballistics team is coming into the apartment to confirm the gun shot and he is waiting for that team to show up and was scared.
5. The Landlord submitted several exhibit pictures at the hearing which showed Mr. Squirrel's living room which is located directly above the rental unit, the police ballistics team examining the hole in the floor/roof, and the other hole in the roof of the building. The Landlord also submitted an information filed with the court against Branden Reichehd, one of the Tenant's guests, who was charged for carrying and use of a weapon that night for the incident in the rental unit. The Landlord further testified to the impact this has had on other tenants in the building, many of which are elderly and now scared in their homes.
6. The Landlord also called Tim Squirrel as a witness who testified about what happened on December 3, 2023. Mr. Squirrel was woken up during the night but did not immediately identify that the loud bang or pop noise was a bullet, as he thought something may have fallen off a shelf. Mr. Squirrel was then speaking with police who went inside his rental unit who had mentioned to him a complaint of a firearm being discharged. The police the located a hole in the ceiling of the unit below Mr. Squirrel and the corresponding hole in his floor. Mr. Squirrel confirmed that the photos taken with a hole in the floor are of his living room and further added that he sits on the couch right beside the entry point which was close to his feet and where his dog lays beside him and that he could have been hit. Mr. Squirrel has also been unable to live comfortably in his rental unit since the incident and has rearranged all of his furniture away from where it used to be including the master bedroom which is right above the Tenant's rental unit.
7. The Landlord has established on a balance of probabilities that another guest permitted in the residential complex by the Tenant has seriously impaired the safety of another person by discharging a firearm in the rental unit on December 3, 2023. Mr. Squirrel or his family could have been hit by the bullet if they were in the living room instead of bed and this is sufficient to establish the application. The incident occurred on the residential complex.
8. Based on the Monthly rent, the daily compensation is \$33.70. This amount is calculated as follows: $\$1,025.04 \times 12$, divided by 365 days.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. There is no last month's rent deposit.
11. 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. The Tenants were not present to explain any circumstances for relief.

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 April 7, 2024.
2. If the unit is not vacated on or before April 7, 2024, then starting April 8, 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 8, 2024. The Sheriff is requested to expedite the enforcement of this order.
4. The Tenants shall pay the Landlord compensation of \$33.70 per day for the use of the unit starting February 13, 2024 until the date the Tenants move out of the unit.
5. The Tenants shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. If the Tenants do not pay the Landlord the full amount owing on or before April 7, 2024, the Tenants will start to owe interest. This will be simple interest calculated from April 8, 2024 at 7.00% annually on the balance outstanding.

March 27, 2024

Date Issued

Elan Shemtov

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 2, 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.