



Order under Section 31 Residential Tenancies Act, 2006

Citation: Anderson v Pinto, 2024 ONLTB 6758

Date: 2024-01-26

File Number: LTB-T-039680-23

In the matter of: 101, 197 QUEENSTON ST
ST CATHARINES ON L2R3A4

Tenant

Between: James Anderson

And

Landlord

Rodvin Pinto
Adam Ezak

James Anderson (the 'Tenant') applied for an order determining that Rodvin Pinto (the 'Landlord') entered the rental unit illegally; altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys; harassed, obstructed, coerced, threatened or interfered with the Tenant; and, withheld or interfered with their vital services or care services and meals in a care home.

This application was heard by videoconference on June 12, 2023 and November 1, 2023.

The Landlord's legal representative M. Bennett, the Landlord Adam Ezak and the Tenant attended the hearing.

Determinations:

1. The Tenant's T2 application was filed May 19, 2023 and, among other things, alleges that the Landlord illegally locked out the Tenant from the rental unit and disposed of the Tenant's belongings.
2. On consent of the parties, at the hearing Adam Ezak was added as a landlord in this application.
3. The Tenant's application seeks to be reinstated into the rental unit, as well as compensation for the property that was damaged, destroyed or disposed of. At the time of the November 1, 2023, hearing, it was noted the Tenant's possession of the rental unit had already been reinstated. The Tenant, accordingly, sought compensation for the lost property, as well as an abatement of rent.
4. The Tenant, James Anderson (JA), has resided at the rental unit for 18 years. The monthly rent is \$760.73 per month.
5. The Tenant testified that on April 12, 2023, he turned on the wrong stove burner while making tea and consequently, a fire started. JA testified there was significant smoke damage and the

fire department attended at the scene. As a result of the fire/smoke, the Landlord immediately secured the building and advised JA that he could not longer safely reside in the rental unit. In the days that followed, JA testified the Landlord began performing renovations to the rental unit and started disposing of the Tenant's personal possessions. JA submits that after the police became involved, the Landlord began putting the Tenant's items in large plastic bags and dumping his items in the bedroom area and/or storage bin. Unfortunately, JA submits much of his items were destroyed/lost, and the Tenant seeks compensation of \$5,063.00 for the loss incurred. The Tenant also seeks reimbursement for storage costs, and rent paid during the period of time he was not living in the rental unit.

6. The Landlord, Adam Ezak (AE), testified the rental unit sustained a "major fire" on April 12, 2023, making the rental unit "*uninhabitable*" and requiring "*major construction*". AE added that the electrical wires were melted, the electrical panel was shut off and the kitchen was completely burned. The Landlord noted that all electrical work had to be redone, with walls removed and much of the interior of the rental unit completely "gutted". AE testified he was not aware of any personal belongings of the Tenant thrown out, stating the Landlord made multiple attempts to have the Tenant retrieve his items. In this regard, AE stated he text the Tenant 3 times and made multiple phone calls to the Tenant asking when/how he would like to retrieve his items. On direct, the Tenant seemed to corroborate the Landlord's purported attempts to return his belongings, stating that the Landlord kept "*calling me to come and get my stuff out*", but the Tenant was unable to do so in such short notice. Regardless, the Tenant did eventually retrieve at least some of his items, which were moved into storage, at the Tenant's expense.
7. Based upon the evidence presented, I do not find that there was an illegal lockout. I accept that the property was "uninhabitable" and unsafe following the fire, requiring the unit to be secured with significant and urgent repair work to be taken by the Landlord thereafter. In this regard, the Landlord produced a *Fire Scene Release Form* from St. Catharines Fire Services providing that the landlord "*will ensure that the site is made safe by taking whatever lawful actions are necessary, including but not limited to the securing of the building and or site to prevent unauthorized access or entry.*"
8. With respect to lost items, the Tenant's evidence was wavering and overall, not convincing regarding the items the Landlord purportedly disposed, stating repeatedly that "*a third of my stuff was thrown out*". The Tenant indicated his bed was destroyed, and that a couch and metal rack in the kitchen which contained the Tenant's kitchen items were also disposed of. While not a requirement to prove one's claim, the Tenant did not produce any pictures, receipts of purchase, or any other corroborating evidence to show which items were originally in his possession and/or lost due to the fire as opposed to the actions of the Landlord. The onus to prove the allegations in this application rests with Tenant and I find there was insufficient information presented to show the Landlord's actions caused any such loss. This allegation is therefore dismissed. The Tenant's claim for storage costs is also dismissed, as I find any such storage costs were incurred due to the fire that occurred, and not because of the Landlord's actions.
9. The Landlord noted that the Tenant's rent cheques have not been cashed since the fire incident, and produced copies of the April 28, 2023 and May 31, 2023 cheques, which were not cashed. Although the Landlord did not accept rent in the months following the fire, I find the Tenant shall be reimbursed for the prorated rent collected for the month of April 2023. The Tenant had no use of the rental unit for the period of time of April 13, 2023 through to April 30, 2023, and thus, I find the Landlord shall pay to the Tenant a total abatement of \$450.00 for this period of time.

It is ordered that:

1. The Landlord shall pay the Tenant a rent abatement \$450.00 for the period of time extending from April 13, 2023 to April 30, 2023.
2. The Landlord shall pay the Tenant the full amount owing by February 6, 2024.
3. If the Landlord does not pay the Tenant the full amount owing by February 6, 2024, the Landlord will owe interest. This will be simple interest calculated from February 7, 2024 at 7.00% annually on the balance outstanding.

January 26, 2024
Date Issued

Peter Nicholson
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.