



Order under Section 31 Residential Tenancies Act, 2006

Citation: Weldemehin v M. F. Arnsby Property Management, 2024 ONLTB 4742

Date: 2024-01-17

File Number: LTB-T-088316-23

In the matter of: 1470 JALNA BLVD
LONDON ON N6E3H5

Tenant

Between: Tariku Weldemehin

And

M. F. Arnsby Property Management

Landlord

Tariku Weldemehin (the 'Tenant') applied for an order determining that M. F. Arnsby Property Management (the 'Landlord'):

- altered the locking system on a door giving entry to the rental unit or residential complex without giving the Tenant replacement keys.
- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

This application was heard by videoconference on January 8, 2024.

The Landlord's Legal Representative Gail Kukor Lang and the Tenant and the Tenant's Legal Representative Scott Raymond Mair attended the hearing.

Determinations:

1. The T2 application claims the Tenant was wrongfully and unlawfully evicted by the Landlord on November 7, 2023. The application claims the locks were changed by the Landlord and that replacement keys were not provided to the Tenant. According to the application and the remedies being sought, the "unlawful eviction" by the Landlord also amounted to substantial interference and harassment of the Tenant. Lastly, the application claims the Landlord threatened to destroy the Tenant's property if it was not collected within 72 hours.

History

2. On August 25, 2023, the Board issued an order for file LTB-L-029550-23. This order is a mediated agreement reached between the parties in respect to an L1 application filed by the Landlord.

3. On September 22, 2023, the Board issued order LTB-L-069972-23. This file is an L4 application filed by the Landlord because the Tenant breached the mediated agreement. The order terminated the tenancy on October 3, 2023 after finding the Tenant breached a condition in Board order LTB-L-029550-23.
4. The eviction was enforced by the Landlord on November 7, 2023.
5. On December 27, 2023, the Tenant requested an extension of time to file a motion to set aside the L4 order LTB-L-069972-23. This request was denied. On the same date, the Tenant requested a review of order LTB-L-069972-23. On December 28, 2023, the Tenant's request for review was denied.

T2 Application

6. Contrary to the claims in the T2 application, the Tenant was evicted lawfully. The Landlord obtained an order from the Board terminating the tenancy. The Landlord enforced the order through the Sheriff's office as they were permitted to do.
7. The T2 application is misleading by referring to the eviction as wrongful and unlawful. It makes no mention of the history I have described in this order. The T2 application amounts to an appeal of order LTB-L-069972-23 without mentioning that it is. This is completely improper and most of the application must be dismissed for this reason. The Landlord enforcing a Board order evicting the Tenant cannot be found to have illegally locked out the Tenant. The Landlord's lawful conduct also does not constitute substantial interference or harassment of the Tenant.
8. The remaining claim on the T2 application was in relation to the Tenant's property. The application claims the Landlord threatened the Tenant that his property will be destroyed if not collected within 72 hours of the eviction. The application also claims the Tenant retrieved his property and he seeks compensation for having to store it after being evicted.
9. The Landlord stated they continue to hold the Tenant's remaining property and have contacted the Tenant to have him collect this property. I asked the Tenant's Legal Representative why the remaining property had not been collected and he stated the Tenant works "a city away" and it has been difficult to contact and coordinate a time with him.
10. Based on the submissions of parties, I am not satisfied the Landlord has interfered in any way the Tenant collecting his remaining property. The Landlord is required to make this property available for 72 hours after an eviction occurs and as of the hearing date, they continue to make it available to the Tenant. I find it most likely the Landlord remains in possession of the Tenant's property because of inaction on the part of the Tenant in collecting it. For these, reasons, this portion of the T2 application is dismissed also.

It is ordered that:

1. The Tenant's application is dismissed.

January 17, 2024

Date Issued

John Cashmore

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.