



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

Citation: Centretown Citizens Ottawa Corporation CCOC v Mahamud, 2024 ONLTB 62351

Date: 2024-08-26

File Number: LTB-L-002972-24

In the matter of: 407, 10 Stevens Avenue
Ottawa ON K1K4M9

Between: Centretown Citizens Ottawa Corporation CCOC Landlord

And

Fartun Mahamud Tenant

2024 ONLTB 62351 (CanLII)

Centretown Citizens Ottawa Corporation CCOC (the 'Landlord') applied for an order to terminate the tenancy and evict Fartun Mahamud (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

This application was heard by videoconference on August 15, 2024.

The Landlord's agent Filsan Elmi and the Landlord's representative Michael Thiele attended the hearing.

As of **11:44 a.m.** 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.

It is determined that:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. However, given the given the improvement in the Tenant's conduct since December, 2023 an order shall issue preserving the tenancy and imposing conditions on the Tenant, for a period of two years.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On November 6, 2023, the Landlord gave the Tenant a first, voidable N5 notice of termination deemed served November 11, 2023 ("**First N5**"). The grounds for termination were substantial interference for several instances of fighting, assault, loud music and sleeping in the hallways. The Landlord's agent Filsan Elmi testified to three of those incidents complained of in the First N5:

1. On May 18, 2023 she received several complaints about loud yelling and fighting at around 7 p.m. by the Tenant with her boyfriend in her apartment, so loud the neighbours could hear in the hallways. Banging, cursing, and yelling could be heard. Police were called to the property. Several Tenant's complained to Ms. Elmi.
2. On September 18, 2023 police were called to the residential complex to remove the Tenant's boyfriend and her brother who were fighting with one another. Tenants complained to Ms. Elmi that the brother, who did not live there, entered the building with his own key. Ms. Elmi testified she had a conversation with the Tenant on September 20th about the incident. The Tenant admitted to her they were fighting because her brother does not like her boyfriend to be there. She agreed not to put the two parties together at the rental unit again. She was given a warning.
3. On October 28, 2023 Tenants reported more yelling and fighting between the brother of the Tenant and her boyfriend. Blood was found on the main hallway doors and wall of the residential complex. The Tenant's boyfriend was found by other tenants sleeping in the stairwell at 4 a.m. in a puddle of urine. Photos produced at the hearing were taken by one Tenants of the area, the urine and the clothes and objects piled in front of the Tenant's door that same day.
4. I am satisfied based on the evidence provided that the Landlord was allowed to give the Tenant a second, non-voidable N5 notice of termination under section 68 of the *Residential Tenancies Act, 2006* (Act).
5. On January 4, 2024, the Landlord gave the Tenant a second N5 notice of termination deemed served January 9, 2024 ("**Second N5**"). The grounds for termination in Second N5 were substantial interference by the Tenant, other occupants, or her guests by loud partying, fighting and vandalism of the complex by the Tenant's boyfriend.
6. The Tenant, an occupant of the Tenant's rental unit or a person permitted in the residential complex by the Tenant engaged in loud partying on the night of December 15, 2023. At approximately 9:00 a.m. on December 16, 2024 the Tenant and her boyfriend were fighting and yelling for nearly two hours, so loudly it could be heard two floors down by other tenants in the building. Neighbouring tenants tried to record the interaction and complained to Ms. Elmi. They also complained that the Tenant's boyfriend had carved something into the building's glass window. The carved symbol is still there as of the hearing date.
7. I accept that loud fighting for a period of two hours after the prior incidents in the fall would substantially interfere with the other tenants' reasonable enjoyment of the residential complex.
8. Regarding the carved symbol, the Landlord's agent testified that this was a gang symbol and for this reason, combined with the Tenant's boyfriend's behaviour, has caused reasonable fear among the other tenants. The Landlord's representative provided no evidence of the symbol's origins or gang association. I was not shown a photo of the symbol. I am unable, without supporting evidence, to draw the conclusion or take judicial notice that this symbol is a gang symbol. Ms. Elmi was unable to say that any tenant in fact saw the Tenant's boyfriend carve this symbol.

9. What I have concluded is that the nature of the boyfriend and brother's conduct is such that the other tenants associate this symbol with gang related activity in their home, attribute it to the Tenant's guests, and feel fear as a result. The Landlord's representative submitted that no tenant was willing to testify out of fear. This speaks to the extent of the interference with the other tenants' reasonable enjoyment of the residential complex as a result of that fighting, physical violence and blood, which interference I find to be substantial.
10. Since December 2023 no additional complaints have come forward and there is no indication that the Tenant's boyfriend is still coming around the residential complex.

Daily compensation, rent deposit.

11. At the hearing the Landlord requested to withdraw their claim for daily compensation because they had recently filed an L1 application for non-payment of rent. I consented to the withdrawn of that claim.
12. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
13. There is no last month's rent deposit.

Relief from eviction

14. 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 not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
15. The Landlord submitted that the Tenant is a single mother receiving social assistance. Her child is 9 years old. This is a rent-geared-to-income building and the rent is \$136.00 per month. Since December 2023 no additional complaints have come forward and there is no indication that the Tenant's boyfriend is still coming around the residential complex.
16. The Landlord is seeking a standard eviction order.
17. The Landlord's representative submits the Landlord is a corporation so the real unfairness from a delay or denial of eviction is to the other tenants. It is the nature of the people in the residential complex which demands eviction. The Landlord submits it has a duty to ensure quiet enjoyment of their units and a delay or denial of eviction prejudices those tenants. The events that occurred were traumatic for those tenants. Additional delay would create continued exposure to that conduct.
18. Balancing the Landlord's submissions with the fact that the conduct has ceased for 8 months and the Tenant's boyfriend no longer comes to the residential complex, the difficulty she may have obtaining another RGI unit for her and her young child, I find a conditional order appropriate.

It is ordered that:

1. The tenancy between the landlord and the Tenant continues if the Tenant meets the conditions set out below.
 - a) **For a period of two years** from the date of issuance of this order, the Tenant shall not substantially interfere with another tenant's reasonable enjoyment of the residential complex or the Landlord's rights, privileges and/or interests by making or permitting occupants or her guests to make noise disturbances in the residential complex, including yelling, banging, door slamming, playing music loudly, fighting, arguing or talking loudly, especially not late at night and in the early morning.
2. If the Tenant fails to comply with the conditions set out in paragraph 1 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
3. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
4. If the Tenant does not pay the Landlord the full amount owing on or before September 30, 2024, the Tenant will start to owe interest. This will be simple interest calculated from October 1, 2024 at 7.00% annually on the balance outstanding.

August 26, 2024
Date Issued

Julie Broderick
Member, Landlord and Tenant Board

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