



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

Citation: Toronto Community Housing Corporation v Ahmed, 2024 ONLTB 12483

Date: 2024-04-

02 File Number: LTB-L-
022121-23

In the matter of: 4, 1525 DUNDAS ST W TORONTO
ON M6K1T7

Between: Toronto Community Housing Corporation Landlord

And

Ahmed a. Ahmed Tenant

Toronto Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Ahmed a. Ahmed (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 involving the production of an illegal drug, the trafficking in an illegal drug or the possession of an illegal drug for the purposes of trafficking.

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 5, 2024.

The Landlord, the Landlord's Legal Representative J Ratnakumaran, Landlord's witnesses Matt Furfaro, Leonard Mitalas, Landlord's Agent Tanisha Allen and the Tenant attended the hearing.

Determinations:

1. 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. Therefore, the tenancy is terminated as of April 13, 2024.
2. The Tenant was in possession of the rental unit on the date the application was filed.

3. On February 14, 2023, the Landlord gave the Tenant an N6 notice of termination deemed served on February 19, 2023. The date of termination is March 14, 2023.
4. In the N6, the Landlord claims that the Tenant or an occupant has committed an illegal act or is carrying on an illegal business involving possession of an illegal drug for the purpose of trafficking. The notice of termination contains the following allegations:

On January 2, 2023: The Tenant was seen on camera selling drugs to two non-residents, the Tenant was subsequently arrested by police and charged. Controlled drugs were found in the rental unit.
5. On January 2, 2023, a Search Warrant was executed at the Tenant's rental unit and the Tenant was arrested and charged by the arresting Officer.
6. The Landlord's witness Matt Furfaro ('MF') has been an Officer with Toronto Police Services, for 10 years. His current designation is Detective Constable in Major Crimes Unit. His unit investigates crimes related to firearms and controlled substances. He is the Officer in charge of the Tenant's case and is aware of the events that transpired on January 2, 2023.
7. Officer MF testified that on January 2, 2023, his team were granted a CDSA search warrant for the rental unit. On execution of the search warrant, they found large amounts of controlled substances and paraphernalia related to trafficking. A copy of the "General Occurrence Report" was entered as Landlord's "Exhibit 1" setting out the particulars of the January 2, 2023 event.
8. Officer MF testified that the Tenant was arrested and was charged with the following offences:
 - a) Possession of the powder-cocaine for the purpose of trafficking
 - b) Possession of the crack-cocaine for the purpose of trafficking
 - c) Possession of the fentanyl for the purpose of trafficking
 - d) Possession of proceeds of crime under \$5,000.00.
9. The Tenant questioned if the officer could attest that the things found in the rental unit were his. MF testified that since the matter was still before the Courts, he cannot answer for sure but there has to be a reasonable and probable grounds for a search warrant to be granted. Officer MF also testified that during the search, police seized an additional 111.56 grams of powder cocaine, 3.6 grams of crack cocaine and fentanyl 99.88 grams along with Canadian currency, debt list book, multiple cellphones, packaging and digital scale.
10. Leonard Mitalas ('LM') testified that he is a Special Constable employed directly by the Landlord and has been since 2010. Officer LM is familiar with the Tenant even though he has never dealt with him directly. Officer LM was aware of the January 2, 2023 search

warrant and was in attendance during the search. A copy of his full CORA Report was entered as Landlord's "Exhibit 2".

11. LM testified that he watched the Tenant via the cameras in the residential complex selling drugs to non-residents in the North stairwell on January 2, 2023 and then the Police searched his apartment and found controlled drugs. The quantity found was way over personal use and there were other proceeds of crime found as well. The Tenant was arrested and taken to the police station. He added that he was only responsible for monitoring the video footage at the residential complex while the warrant was being executed by the police.
12. LM testified he does not work in that specific building so is not aware if there have been previous incidents involving this Tenant, but he was called for this particular event. He was only assisting the police.
13. Tanisha Allen ('TA'), a Manager for Tenancy Management for the Landlord, testified that she is familiar with the Tenant. TA also testified that the residential complex consists of approximately 4 storey high building which accommodates a diverse demographic of residents – single mothers, families, seniors, vulnerable persons. It is a quiet, peaceful building so anytime there is an incident concerning illegal activity, it raises concerns about the other resident's safety.
14. The Tenant testified that the Landlord is only alleging that they have evidence of him selling drugs but have never seen him on camera. He has lived there since 2015 and there have been no incidents before or after. He added that the Landlord alleges that the police entered his rental unit at 9:00 p.m. which was after the search warrant time which was till 7:30 p.m. He was arrested at 7:04 p.m. so he was not in the rental unit at the time, so he is not sure what they found.
15. Neither the police nor the Landlord caught the two non-residents they allege he sold drugs to. They are his friends and were there to meet him.
16. The Tenant also testified that he has a disability and mental health issues. He believes he is being targeted and will be rendered homeless by a false claim since that have not been proven in court yet.
17. Based on the evidence provided at the hearing, I am satisfied, on a balance of probabilities that the Landlord has established that the Tenant committed a serious illegal act in the rental unit, namely possession of crack cocaine for the purpose of trafficking. While the Tenant testified that he is not the owner of the drugs found in his unit, he is the only Tenant of the rental unit, and he is the only person living there. There are no other occupants. I find that the drugs found by police in the rental unit are therefore likely the Tenant's property.
18. With respect to the fact that Tenant has not been convicted of any of the criminal charges relating to the execution of the search warrant at his rental unit, I note that section 75 of the Act states that the Board may issue an order terminating a tenancy based on a notice of

termination under section 61 whether or not the tenant has been convicted of an offence relating to an illegal act, trade, business or occupation.

Rent deposit and compensation for use

19. The Tenant was required to pay the Landlord \$1,498.92 in daily compensation for use and occupation of the rental unit for the period from March 15, 2023 to February 5, 2024.
20. 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.
21. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
22. There is no last month's rent deposit.

Relief from eviction

23. 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.
24. The Tenant asked from relief from eviction based on the fact that he will be homeless, but I do not find that the safety of the other residents can be compromised in this case.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated, as of April 13, 2024. The Tenant must move out of the rental unit on or before April 13, 2024.
2. The Tenant shall pay to the Landlord \$1,498.92, which represents compensation for the use of the unit from March 15, 2023, to February 5, 2024. If the Tenant has made any payments to Landlord since the date of the hearing, those payments shall be applied to the amount outstanding.
3. The Tenant shall also pay to the Landlord \$4.57 per day for compensation for the use of the unit from February 5, 2024, to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. The total amount the Tenant owes the Landlord is \$1,684.92.
6. If the Tenant does not pay the Landlord the full amount owing on or before April 13, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 14, 2024 at 7.00% annually on the balance outstanding.

7. If the unit is not vacated on or before April 13, 2024, then starting April 14, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 14, 2024. The Sheriff is requested to expedite the enforcement of this order.

April 2, 2024

Date Issued

Sheena Brar

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 August 25, 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.