



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

Citation: Wojcicki v Carrier, 2024 ONLTB 8868

Date: 2024-02-02

File Number: LTB-L-035360-23

In the matter of: Lower Unit, 414 Davenport Road Toronto
ON M4V1B5

Between: Dagmar Wojcicki Landlord

And

Anthony Carrier Tenant

Dagmar Wojcicki (the 'Landlord') applied for an order to terminate the tenancy and evict Anthony Carrier (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.

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 January 24, 2024.

The Landlord and the Landlord's Legal Representative, J. Azan and the Tenant attended the hearing.

The following people attended as witnesses for the Landlord:
Sandra Chow, Barbara Milner

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On May 2, 2023, the Landlord gave the Tenant an N6 notice of termination with a termination date of May 22, 2023. The notice details the history which lead to the allegations in the notice. The notice of termination contains, in part, the following allegations:
 - The Tenant was arrested on June 4, 2022, following the June 2022 arrest, the Tenant was released and returned to the property, after his return to the property, the Tenants behaviour worsened. He continually made noises, banged on the walls, and undertook to intimate neighbours and residents.
 - The Tenant's behaviour culminated on April 22, 2023. On this date, the Toronto Police services executed a search warrant, entered the unit by force, and the Tenant was charged with Threatening bodily harm, criminal harassment, and disobeying a court order.
 - The Tenant was subsequently released and returned to the property.

Landlord's evidence

4. B. Milner testified on behalf of the Landlord. She resides in the house that is attached to the Tenant's house. She testified that since late 2020, she has been experiencing problems with the Tenant. She testified that on June 4, 2022, she heard the tenant screaming, he was yelling that she was a "crack whore" and other obscenities. 2 videos were submitted into evidence and played during the hearing.
5. She testified that as a result of this incident, the police were called. The police advised her that she could press charges relating to criminal harassment. She testified that she was very nervous and did not know how that would ultimately affect herself and her family. She did end up pressing charges, and the Tenant was arrested.
6. She testified that on March 20, 2023, the noise levels coming through the shared wall were atrocious. She went to the knock on the Tenant's door. He did not answer, but was yelling hateful things through the door, including threatening to cause her bodily harm. A video of this incident was submitted into evidence and played at the hearing. She testified that her son heard the threats and his mental health deteriorated. She contacted the police, and the Tenant was ultimately arrested on April 22, 2023 and was charged with threatening bodily harm, criminal harassment and disobeying a court order.
7. She testified that the Tenant was arrested again in October 2023 and December 6, 2023 for the same behaviour. She testified that the Tenant harasses her in the form of unbearable noise and yelling from hi unit. She testified that the police have removed any amplifying devices form the Tenant's unit. She testified that the behaviour displayed by the Tenant has not changed, that she is fearful, and the Tenant is unpredictable.

8. S. Chow testified on behalf of the Landlord. She is the property manager. She testified that she has communicated with the Tenant regarding his behaviour on several occasions. An example of one of those occasions, an email, was submitted into evidence. In the email, when confronted about the noise, the Tenant in response on October 11, 2022 writes: Go fuck yourself...! And tell that fag to suck a dick...!"
9. She testified that there continue to be issues with the Tenant, up until as recently as last night.

Tenant's evidence

10. The Tenant testified that he doesn't think that playing music is a big deal. He testified that he is being shunned because he is a renter. He testified that he thinks his charges will be thrown out and that his charges are not that bad. He testified that he has been called names and that his neighbours accuse him of things day and night.

Analysis

11. Section 61(1) of the Act states:

A landlord may give a tenant notice of termination of the tenancy if the tenant or another occupant of the rental unit commits an illegal act or carries on an illegal trade, business or occupation or permits a person to do so in the rental unit or the residential complex.

12. Based on the evidence before me, I am satisfied, on a balance of probabilities, that the Tenant has threatened to cause bodily harm to and criminally harassed Ms. Milner. I am also satisfied that the Tenant disobeyed a previous order by continuing the behaviour. I am satisfied that this happened in the rental unit and on the residential complex.
13. I found Ms. Milner's testimony to be straight forward and consistent, and therefore reliable. In contrast, I found the Tenant to have a blasé attitude towards his behaviour, testifying that his charges were not that big of a deal. The evidence submitted by the Landlord with respect to these incidents, namely the videos that were played during the hearing, further substantiate the testimony of Ms. Milner.
14. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
15. The Landlord collected a rent deposit of \$1,095.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$70.60 is owing to the Tenant for the period from November 6, 2019 to January 24, 2024.
16. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

Relief from eviction

17. The Tenant testified that he receives income assistance from Ontario Disability Support Program. He lives in the unit alone and has been residing there since 2019. He testified that he has looked at other places to move to, however there are no units that are affordable to him. He requested that if this tenancy were to terminate, he be given 6 months to find a new place to live.
18. The Landlord requested a standard order for eviction.
19. I am of the view that this tenancy is no longer viable. It cannot be saved by way of a conditional order. I say this because the Tenant has been arrested numerous times, and still his behaviour continues. Notwithstanding that, the Tenant seems to be of the view that his actions are “no big deal”. Without a hint of contriteness, or even an acknowledgment of his behaviour, it would be an effort in futility to attempt to rehabilitate this tenancy.
20. Given the Tenant’s limited financial resources, I find it fair in the circumstances to delay the termination until February 29, 2024.
21. 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 postpone the eviction until February 29, 2024 pursuant to subsection 83(1)(b) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before February 29, 2024.
2. If the unit is not vacated on or before February 29, 2024, then starting March 1, 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 March 1, 2024.
4. The Tenant shall pay to the Landlord \$9,005.28, (less any payments made to the Landlord since the termination date on the notice) which represents compensation for the use of the unit from May 23, 2023 to January 24, 2024.
5. The Tenant shall also pay the Landlord compensation of \$36.46 per day for the use of the unit starting January 25, 2024 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The Landlord owes \$1,165.60 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
8. The total amount the Tenant owes the Landlord is \$8,025.68 (less any payments made by the Tenant since the termination date on the notice).

9. If the Tenant does not pay the Landlord the full amount owing on or before February 29, 2024, the Tenant will start to owe interest. This will be simple interest calculated from March 1, 2024 at 7.00% annually on the balance outstanding.

February 2, 2024

Date Issued

Emily Robb
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 14, 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.