



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

**Citation:** St James Court Nphc C/O Bayshore Property Management v Martin, 2024 ONLTB 5201

**Date:** 2024-01-26

**File Number:** LTB-L-008589-23

**In the matter of:** 207, 18 PETER ST N  
ORILLIA ON L3V4Y7

**Between:** St James Court Nphc C/O Bayshore Property Management Landlord

**And**

Chris Martin Tenant

St James Court Nphc C/O Bayshore Property Management (the 'Landlord') applied for an order to terminate the tenancy and evict Chris Martin (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in 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 December 14, 2023.

The Landlord's Legal Representative, Cassandra Weatherston, the Landlord's witnesses, Bruce Barns and Victoria Donnelly, the Landlord's Agent Donna Gordon, the Tenant, and the Tenant's mother, Davina Martin, 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 must be terminated.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On January 20, 2023, the Landlord gave the Tenant an N7 notice with a termination date of February 5, 2023. The notice of termination alleges the Tenant seriously impaired the safety of another person in the rental complex.
4. For the reasons set out below, I find that the Tenant has seriously impaired the safety of his guest, Davina Martin ("DM") by throwing a wooden slat causing direct impact to her head. This conduct occurred in the rental complex, in a common area hallway.

## Landlord's Evidence

5. The Landlord submitted video surveillance of an incident which occurred on January 16, 2023 at approximately 2:15PM. In the video, DM is seen exiting the rental unit. The Tenant emerges from the rental unit, and throws a coat at DM. DM turns around, picks up the coat, and turns back around and proceeds to walk away. The Tenant then emerges again from the rental unit, this time holding a wooden board which appears to be 1' x 2'. The Tenant throws the wooden board at DM, striking her in the head, causing her glasses to fall off her face and break. DM hunches forward and holds her head. Throughout the video, other tenants start emerging from their units to investigate the disturbance heard.
6. Victoria Donnelly ("VD") lives across the hall from the Tenant, was present the day of the incident, and testified as a witness for the Landlord. On the day of the incident, VD testified she was on her couch when she heard a bang and a woman crying in the hallway. When she opened her unit door, she saw the Tenant standing in the hall and DM crying. When VD asked DM if she was okay, VD claims the Tenant approached her aggressively and told her to mind her business.
7. Since the incident, VD has felt fearful living in the same building as the Tenant. VD's sleep has been impacted by the stress of the incident, and fear of the Tenant's behaviour. VD has resorted to isolating herself in her unit during the evenings and weekends, when there are no staff present in the building.
8. Bruce Barns ("BB"), the building superintendent, was called as witness for the Landlord for an incident after the notice was served. BB was not present during the initial incident but received a call from a complainant regarding the incident and collected the video surveillance of the incident.
9. On March 23, 2023, BB attended the rental unit after discovering the Tenant had improperly disposed of garbage. During the interaction with the Tenant, BB felt the Tenant was being physically intimidating and was bullying him. VD witnessed this incident as well and stated that the Tenant was shouting at BB and was aggressive with BB.
10. BB stated that since the incidents occurred, he feels unsafe when working on the floor that the Tenant lives on.

## Tenant's Evidence

### Preliminary Issue – excluded witness

11. At the start of the hearing, DM sat beside the Tenant on video. I explained to the Tenant and DM that, if he intended to call DM as witness, she would need to be excluded from the hearing until her turn to testify. DM then left the area the Tenant was seated in, and the Tenant confirmed DM had gone into another room where she could not hear the Tenant or the video conference call.
12. After the Landlord's evidence was presented, there was a brief recess before the matter returned. Upon return to the matter, the Tenant was unmuted but did not have the device camera turned on. After being prompted to turn on the camera, DM was seen sitting beside the Tenant. When asked why DM was there, when she hadn't been called, the

Tenant stated he thought it was fine for her to come back. I was not satisfied that in the short recess, the Tenant and DM were not together. For procedural fairness, I determined DM should not testify as her testimony may have been skewed.

13. The Tenant does not dispute he threw a wooden board at his mother's head. The Tenant testified that his mom was helping him rearrange the apartment and set up a new mattress after pest control treatment was completed that day. In absence of a box spring, the Tenant decided to use wooden boards to support the mattress. An argument started between DM and the Tenant regarding how many boards should be used to support the mattress. DM left the rental unit during the argument. The Tenant testified he was feeling stressed and upset about the criticism of DM and wanted the board out of the apartment, which is why he threw it, but he didn't intend to hit DM.
14. The Tenant at first disputed VD being present in the hallway. He relied on the video surveillance which does not show VD. In that portion of the video, the Tenant is seen yelling and pointing at VD's unit doorway. Throughout the testimony, the Tenant then admitted to yelling at VD to mind her own business. The Tenant stated that VD interrupted a private conversation and should not have come out of her unit to check on DM.
15. When asked if he believed his behaviour was normal, the Tenant testified that it is not unusual for him to raise his voice when involved in an argument. He testified that throwing wooden boards at people is not something that's happened before in an argument. The Tenant testified that it is not his responsibility to make other people feel safe, and that his behaviour making people feel unsafe is not his problem.
16. Regarding the March 23, 2023 incident with BB, the Tenant testified that BB lied about the events. The Tenant testified that BB was the one being aggressive and verbally abusive. The Tenant responded in the same manner by being aggressive and verbally abusive back to BB.

#### Analysis

17. Section 66(1) of the Act states:

A landlord may give a notice of termination of the tenancy if,

- a) An act or omission of the tenant... seriously impairs or has seriously impaired the safety of any person; and
  - a. The act or omission occurs in the residential complex.

18. To terminate a tenancy for serious impairment of safety, there must be evidence that someone's safety has actually been impaired, and in a serious manner.
19. Based on the undisputed evidence provided to the Board, I am satisfied that the Tenant seriously impaired the safety of DM by throwing a wooden board and striking her in the head.
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. The Landlord collected a rent deposit of \$139.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$49.90 is owing to the Tenant for the period from November 1, 2005 to December 14, 2023 .
23. 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

24. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
25. The Tenant is a single man living in the rental unit. The Tenant stated that he has been prescribed tranquilizers due to the stress of facing eviction and homelessness.
26. The Landlord's staff, BB, and the neighbouring tenant VD, both claimed to feel unsafe since the original incident occurred and I accept that the behaviour of the Tenant has caused them to feel this way. They avoid common areas to mitigate the chances of running into the Tenant, and VD doesn't leave her apartment if staff aren't in the building.
27. I find that, if the Tenant was upset and felt justified in throwing a wooden board, a conditional order would not be appropriate.

#### 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 January 31, 2024.
2. If the unit is not vacated on or before January 31, 2024, then starting February 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 February 1, 2024.
4. The Tenant shall pay to the Landlord \$1,425.80, which represents compensation for the use of the unit from February 6, 2023 to December 14, 2023, less any rent payments already paid to the Landlord for the rental period.
5. The Tenant shall also pay the Landlord compensation of \$4.57 per day for the use of the unit starting December 15, 2023 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 \$188.90 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. If the Tenant does not pay the Landlord the full amount owing on or before January 31, 2024, the Tenant will start to owe interest. This will be simple interest calculated from February 1, 2024 at 7.00% annually on the balance outstanding.

**January 26, 2024**  
**Date Issued**

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Elena Jacob  
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 1, 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.