



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

Citation: Cheong v Hall, 2024 ONLTB 3163

Date: 2024-01-08

File Number: LTB-L-036022-22

In the matter of: 531, 8763 BAYVIEW AVE
RICHMOND HILL ON L4B3V1

Between: Lau Wing Cheong Landlords
Ho Grace Suet Chi

And

Katrina Hall Tenant

Lau Wing Cheong and Ho grace suet Chi (the 'Landlords') applied for an order to terminate the tenancy and evict Katrina Hall (the 'Tenant') because:

- The Tenant's behaviour or the behaviour of someone visiting or living with the Tenant has substantially interfered with another Tenant or the Landlord's reasonable enjoyment of the residential complex and/or the Landlord's lawful rights, privileges or interest.
- The Tenant or someone visiting or living with the Tenant has willfully damaged the rental unit or the residential complex

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on June 27, 2023.

The Landlord's representative Bill Burd and the Tenant's legal representative Bahman Roudgar attended the hearing.

As of 1:55 p.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.

Removal of Tenant's Representation

1. The Tenant's representative requested to be removed as the Tenant's legal representative.

2. The Tenant's representative read an email to the board where the Tenant stated the Tenant wanted to self-represent. In addition, the Tenant's representative stated they made multiple attempts to contact the Tenant by phone, e-mail and letter with no response. This significantly impacted the Tenant's representative ability to provide legal services. The Landlord's representative was open to mediation but without any communication, the Tenant's representative was unable to receive any type of instruction on how to proceed.

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3. The Landlord's representative had no objection to the Tenant's representative being removed.
4. Based on the circumstances, the Tenant's representative request to be removed from the application is granted.

Tenant's Attendance

5. The Landlord's representative submitted the Tenant was aware of the hearing as the Tenant was in attendance for application Ltb-L-021606-22 where this current application was brought up, including the date of this current application.

N5 Tenant's Conduct -

6. The Tenant has voided the conduct portion of the N5 and as a result this portion of the application is dismissed.

N5 Tenant's Undue Damage

7. In considering damages, I do not interpret damages are limited to "property damage" only when the Landlord has checked Reason 1 in the N5 application for substantial interference and the Landlord's lawful rights and privileges.
8. Section 88.1(4) of the *Residential Tenancy Act, 2006* "the Act" allows the Landlord to receive **reasonable** out-of-pocket expenses occurred as a result of substantial interference, as per section 88.1(1)(a)(ii) of the Act, where the Tenant is required to pay costs to the Landlord for the Tenant interfering with the lawful rights, privilege or interest of the Landlord.

Charge Back Fee from Condo Board

9. The Landlord was charged \$1,101.75 by the condo board as a result of third-party legal fees.

10. The legal fees were a result of the Tenant's behaviour and the condo board hiring legal representation, where a demand letter was sent to the Tenant.
11. The condo board's policy and by-laws deem the Landlord responsible for these legal fees.
12. The Landlord has since paid the condo board's legal fees as requested by the condo board.
13. It is important to note, serving a simple first N5 on the Tenant by any employee of the condo board to correct the Tenant's behaviour would have avoided all legal costs. However, this was the condo board's decision and ultimately the Landlord is held legally responsible based on the condo board's policy and by-laws.
14. Due the Landlord paying \$1,101.75 due to the Tenant's substantial interference and behaviour. I find the Tenant is ultimately financial responsible.

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Relief from Eviction

15. The Landlord is seeking a standard order as a result of the condo board's legal fees.
16. To issue an eviction for third-party legal fees, I must consider both the prejudice, the potential precedent and of course, if these are "**reasonable out of pocket expenses**" should an eviction order be given based on third-party legal fees.
17. It is also important to note, the Tenant's behaviour has been corrected, which was the major issue and area of concern.
18. 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 pursuant to subsection 83(1)(a) of the Act.
19. There is no clear legislation found in the Act, where a Tenant can be evicted for **third-party legal fees**. As stated in paragraph 13 and although not the Landlord's decision, these legal fees could and should have been avoided in their entirety and thus I deem these legal fees to be unreasonable to issue an eviction. As a result, this order will be an interest-only order.

Determinations:

1. As explained above, the Landlords has proven on a balance of probabilities the grounds the claim for compensation in the application. Therefore, I am granting an award of \$1,101.75 to the Landlord with interest commencing the first day of February 2024.
2. The Tenant was in possession of the rental unit on the date the application was filed.

3. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Tenant shall pay the Landlords \$1,287.75 for out of pocket expenses and costs.
2. If the Tenant does not pay the Landlords 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 8, 2024

Date Issued

André-Paul Baillargeon-Smith

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.