



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

Citation: Lmr property management v Myers, 2023 ONLTB 81622

Date: 2023-12-18

File Number:
LTB-L-062562-23

In the matter of: 104, 410 GILES BLVD W
WINDSOR ON N9A6H6

Between: Jazak Holdings c/o
LMR Property Management

Landlord

And

Bree-ann Myers

Tenant

Jazak Holdings c/o LMR property management (the 'Landlord') applied for an order to terminate the tenancy and evict Bree-ann Myers (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 December 7, 2023.

Only the Landlord's legal representative, Thomas Vanner, and the Landlord's property manager, Rachelle Bondy, attended the hearing.

The hearing was scheduled to begin at 1:00pm. As of 1:30pm, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the Board. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence. The hearing block ended at approximately 4:30pm but the Tenant failed to appear at any point during the block.

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.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On July 15, 2023, the Landlord served the Tenant a first, voidable N5 notice of termination. The date of termination is August 5, 2023, the Tenant was given an opportunity to correct their behaviour to void the notice, and the notice contains sufficient dates and details such that the Tenant would be aware of the behaviour complained of. As this first N5 notice complies with the mandatory requirements of the *Residential Tenancies Act, 2006* (the 'Act'), the Landlord was allowed to give the Tenant a second, non-voidable N5 notice of termination under section 68 of the Act.
4. On August 9, 2023, the Landlord gave the Tenant a second N5 notice of termination. The notice of termination contains the following allegations regarding a follow-up inspection with the Landlord conducted on August 8, 2023:
 - The Tenant and/or her guests have vandalized the fire alarm and smoke detectors in the unit;
 - The Tenant and/or her guests have open ash trays with lit cigarettes and crack pipes in the unit;
 - The Tenant allowed two of her guests to be fighting in the hallway and lobby of the building;
 - The Tenant and/or her guests have caused holes in the walls of the unit as well as feces over the walls and floors of the unit;
 - The Tenant and/or her guests have damaged the floors in the unit;
 - The Tenant and/or her guests have damaged the kitchen cabinets in the unit;
 - The Tenant and/or her guests have allowed the kitchen to be cluttered with knee high garbage which includes maggots, and an overwhelming odour;
 - The Tenant and/or her guests have left urine and vomit throughout the unit;
 - The Tenant and/or her guests have been smoking in the unit such that smoke is billowing from the unit.
5. At the hearing, the Landlord's property manager, 'RB', provided first-hand testimony regarding what she personally witnessed in the lobby of the complex and the rental unit on August 8, 2023. RB described seeing all of the damage, items and human excrement throughout the rental unit as described above. RB also described seeing the Tenant's guests, half-dress, and fighting in the lobby on her way to the rental unit. RB says that she had been receiving approximately 3-5 complaints each day from other residents in the building regarding the above allegations. RB also notes that she gained entrance to the unit by calling the police and they assisted her in dealing with the Tenant and the Tenant's numerous guests.

6. Also at the hearing, RB provided pictures of inside the rental unit, outside the rental unit as well as the lobby of the complex. The pictures confirm the damage, the items and the human excrement throughout the rental unit as described above.
7. Based on the evidence before me, I am satisfied that the Landlord has proven all of the allegations outlined in their second N5 notice of termination. The Tenant and her guests have substantially interfered with the reasonable enjoyment of other residents in the building and they have substantially interfered with the Landlord's lawful right, privilege or interest.
8. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'). In particular, I have considered that the residential complex is a multi-story complex which houses couples, families and single people. RB says there are babies and children living on each floor of the complex and the complex houses various vulnerable residents. I have also considered that the Tenant's conduct seems to be escalating since the inspection described on August 8, 2023. In particular, the Tenant has since been arrested multiple times, the police have been called to the unit because of safety concerns, she lit a mattress on fire and the Tenant has flooded the unit below the rental unit. As the Tenant's behaviour is escalating and causing serious safety concerns to the other residents as well as additional property damage to the complex, I find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
9. I also find that the eviction order should be expedited in order to mitigate any delay in the Sheriff's enforcement process.
10. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
11. The Landlord collected a rent deposit of \$1,150.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$31.66 is owing to the Tenant for the period from November 1, 2022, to December 7, 2023.
12. Finally, I am mindful that this order will terminate the tenancy on December 29, 2023, which is during the traditional holiday period. However, based on the Tenant's egregious conduct and the proven allegations before me, I find that it is appropriate to exercise my discretion to terminate the tenancy on December 29, 2023.
13. This order contains all of the reasons within it and no further reasons will be issued.

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 December 29, 2023.
2. If the unit is not vacated on or before December 29, 2023, then starting December 30, 2023, 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 December 30, 2023. **The Sheriff is requested to expedite the enforcement of this order.**
4. The Tenant shall pay the Landlord compensation of \$37.81 per day for the use of the unit starting December 8, 2023, until the date the Tenant moves out of the unit.
5. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. The Landlord owes \$1,181.66 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.
7. The total amount the Tenant owes the Landlord is \$3,692.55.
8. If the Tenant does not pay the Landlord the full amount owing on or before December 29, 2023, the Tenant will start to owe interest. This will be simple interest calculated from December 30, 2023, at 7.00% annually on the balance outstanding.

December 18, 2023

Date Issued

Laura Hartsliel

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 June 30, 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. **The Sheriff is requested to expedite the enforcement of this order.**

