



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

**Citation:** Thompson v Melton, 2023 ONLTB 77245

**Date:** 2023-12-05

**File Number:** LTB-L-063773-22

**In the matter of:** Basement, 3 Crewe Ave  
East York, Toronto ON  
M4C2H9

**Between:** Melanie Jane Thompson

Landlord

**And**

Joe Melton

Tenant

Melanie Jane Thompson (the 'Landlord') applied for an order to terminate the tenancy and evict Joe Melton (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the building has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord in a building that has three or fewer residential units and the Landlord resides in the building.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

This application was heard by videoconference on November 15, 2023. The Landlord and the Tenant attended the hearing.

**Determinations:**

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy or the claim for compensation in the application. Therefore, the application is dismissed.

2. The Landlord's L2 application identifies under Reason 5 that the Landlord incurred out-of-pocket expenses as a result of the Tenant's alleged conduct; however, no monetary costs or a description of the costs are provided in the application. The total monetary amount that the Landlord seeks from the Tenant is listed as \$0.00 on page seven of the application.
3. The Landlord testified that the only remedy that she seeks from her application is the termination of the tenancy. Given that the Landlord's L2 application does not identify specific out-of-pocket expenses, or a claim for any monetary compensation, and the Landlord does not seek any compensation for out-of-pocket expenses, the issue of compensation for out-of-pocket expenses, pursuant to s. 88.1 of the *Residential Tenancies Act, 2006* (the "Act"), will not be considered.
4. The residential complex is a two storey single detached home with two units. The Landlord, her partner, and the Landlord's son reside in one unit consisting of the main floor and the second floor. The Tenant resides in the basement, the second unit in the residential complex.
5. The Tenant was in possession of the rental unit on the date the application was filed, and remains in possession of the unit as of the day of this hearing.

#### **N7 Notice of Termination**

6. On October 17, 2022 the Landlord served the Tenant an N7 Notice of Termination. The notice of termination alleges that the Tenant substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord on four occasions:
  - a) on June 16, 2022 at 9:30 pm when the Tenant attended the Landlord's unit intoxicated and threatened to disrupt the Landlord's party;
  - b) on October 15, 2022 when the Tenant was sitting outside on the back stairs of the residential complex intoxicated;
  - c) on May 24, 2022 when the Tenant's behaviour was aggressive, disruptive, and argumentative; and
  - d) on June 21, 2022 when the Tenant's behaviour was aggressive, disruptive, and argumentative.

#### June 16, 2022

7. The Landlord testified that on June 16, 2022 at 9:30 pm the Tenant came to her unit door and threatened to disrupt a party that the Landlord was holding on June 18, 2022. The Landlord stated that the Tenant also threatened to cause her and her partner bodily harm. The Landlord testified further that her partner and her partner's cousin overheard this

conversation, but were not available to testify at the hearing. The Landlord confirmed that she did not submit any declarations from the witnesses of this conversation, or have any audio or video recordings of the encounter.

8. The Landlord stated that as a result of this incident, she no longer feels safe living with her son in the same residential complex as the Tenant, and she rarely invites people to her unit for fear of agitating the Tenant.
9. The Tenant testified that he attended the Landlord's unit on June 16, 2022 to advise the Landlord that if noise from her party on June 18, 2022 extended beyond 11:00 pm then he would call the police. The Tenant asserted that the Landlord's previous parties were often noisy beyond 11:00 pm. The Tenant remarked that he did not physically threaten anyone during the visit, and that the Landlord was not present, just her partner.
10. On the basis of the evidence provided, I am satisfied that the Tenant, on June 16, 2022, interfered with the Landlord's reasonable enjoyment of the residential complex; however, I am not satisfied that this interference was substantial. In this matter, I find the Tenant's testimony more compelling than the Landlord's. The Landlord has the burden to prove that the Tenant's interference was substantial; however, the Landlord did not establish with sufficient evidence that the Tenant's comments were threatening, and therefore substantially interfered with the Landlord's reasonable enjoyment of the residential complex, or another lawful right, privilege or interest.
11. Accordingly, I find that the Tenant, on June 16, 2022, did not substantially interfere with the Landlord's reasonable enjoyment of the residential complex, or another lawful right, privilege or interest, pursuant to s. 65(1) of the Act.

#### October 15, 2022

12. The Landlord testified that on October 15, 2022 the Tenant was sitting outside on the back stairs of the residential complex intoxicated, and that this has occurred one or two times per week over the period of August 2021 to November 2023. The Landlord stated that she receives complaints from her neighbours on both sides of the residential complex about the Tenant's deportment. The Landlord remarked that she never approached the Tenant regarding his behaviour on the stairs. The Landlord acknowledged that she did not submit any written declarations from her neighbours, nor did she have any audio or video recordings of the Tenant's intoxicated conduct on the stairs.
13. The Landlord stated that as a result of the Tenant's intoxicated disposition on the stairs, she no longer feels safe living with her son in the same residential complex as the Tenant, and she avoids using the backyard for fear of agitating the Tenant.
14. The Tenant testified that he occasionally smokes outside on the back stairs of the residential complex and remains on the back stairs for only a few minutes at a time. The Tenant testified further that at times he enjoys a beer while he smokes, and that he is never rude or raises his voice to either the Landlord or any of the neighbours during his

time outside. The Tenant remarked that he regularly talks to one of the neighbours and there is no animosity between them.

15. On the basis of the evidence provided, I am not satisfied that the Tenant's behaviour on the backyard stairs on October 15, 2022, or on any other date, substantially interfered with the Landlord's reasonable enjoyment, or lawful right, privilege or interest. In this matter, I find the Tenant's testimony more compelling than the Landlord's. The Landlord has the burden to prove that the Tenant's behaviour substantially interfered with her reasonable enjoyment, or lawful right, privilege or interest; however, the Landlord did not establish with sufficient evidence that the Tenant was intoxicated on the back stairs on October 15, 2022, or establish how the Tenant's alleged intoxicated conduct substantially interfered with the Landlord's reasonable enjoyment or lawful right, privilege or interest.
16. Accordingly, I find that the Tenant, on October 15, 2022, did not substantially interfere with the Landlord's reasonable enjoyment of the residential complex, or another lawful right, privilege or interest, pursuant to s. 65(1) of the Act.

#### May 24, 2022

17. The Landlord testified that on May 24, 2022, between 3:00 pm and 4:00 pm, she approached the Tenant about the possibility of vacating the unit, and the Tenant then became aggressive, disruptive, and argumentative. The Landlord confirmed that there were no witnesses to this exchange, or any audio or video recordings of her conversation with the Tenant.
18. The Landlord stated that as a result of this conversation with the Tenant she no longer feels safe living with her son in the same residential complex as the Tenant.
19. The Tenant testified that he never had a conversation with the Landlord on May 24, 2022 about vacating the unit, and was at work for 15 hours on May 24, 2022. The Tenant submitted a pay stub showing his employment for 14 hours on May 24, 2022 during the time period of the alleged conversation. The Tenant noted that he is not aggressive.
20. On the basis of the evidence provided, I am not satisfied that the Tenant was aggressive, disruptive, or argumentative with the Landlord on May 24, 2022 during a conversation regarding the status of his tenancy. In this matter, I find the Tenant's testimony more compelling than the Landlord's. The Landlord has the burden to prove that she had a conversation with the Tenant on May 24, 2022 regarding his tenancy, and that during this conversation the Tenant's behaviour was sufficiently aggressive, disruptive, and argumentative that it substantially interfered with her reasonable enjoyment in the residential complex, or another lawful right, privilege or interest. However, the Landlord did not establish with sufficient evidence that this conversation took place, or specifically how the Tenant's words, demeanor, or conduct during the alleged conversation substantially interfered with the Landlord's reasonable enjoyment of the residential complex, or lawful right, privilege or interest.

21. Accordingly, I find that the Tenant, on May 24, 2022, did not substantially interfere with the Landlord's reasonable enjoyment of the residential complex, or another lawful right, privilege or interest, pursuant to s. 65(1) of the Act.

June 21, 2022

22. The Landlord testified that on June 21, 2022, in the backyard of the residential complex, the Tenant performed an aggressive martial arts demonstration to intimidate her. The Landlord testified further that her son and her partner witnessed the threatening act, but were not available to testify at the hearing. The Landlord confirmed that she did not provide any declarations from her son or her partner regarding the Tenant's martial arts demonstration, nor did she submit or have any audio or video recordings of the demonstration.
23. The Landlord stated that as a result of the Tenant's martial arts demonstration she no longer feels safe living with her son in the same residential complex as the Tenant.
24. The Tenant testified that he never performed a martial arts demonstration in the backyard of the residential complex on June 21, 2022, but he did perform a martial arts demonstration with his son on another date. The Tenant testified further that he was at work for 15 hours on June 21, 2022. The Tenant submitted a pay stub showing that he worked on June 21, 2022.
25. On the basis of the evidence provided, I am not satisfied that on June 21, 2022 the Tenant performed an aggressive martial arts demonstration with the intent to intimidate the Landlord. In this matter, I find the Tenant's testimony more compelling than the Landlord's. The Landlord has the burden to prove that the Tenant performed a martial arts demonstration on June 21, 2022 that intimidated her, and that this demonstration was sufficiently aggressive and threatening that it substantially interfered with her reasonable enjoyment of the residential complex, or another lawful right, privilege or interest. However, the Landlord did not establish with sufficient evidence that this demonstration took place on June 21, 2022, or specifically how the Tenant's alleged martial arts demonstration intimidated her to the extent that it substantially interfered with her reasonable enjoyment of the residential complex, or lawful right, privilege or interest.
26. Accordingly, I find that the Tenant, on June 21, 2022, did not substantially interfere with the Landlord's reasonable enjoyment of the residential complex, or another lawful right, privilege or interest, pursuant to s. 65(1) of the Act.

Summary of N7 Allegations

27. The Landlord has not proven, on a balance of probabilities, the grounds for termination of the tenancy pursuant to s. 65(1) of the Act. Therefore the application must be dismissed.

**It is ordered that:**

1. The Landlord's application is dismissed.

**December 5, 2023**

**Date Issued**

Frank Ebner

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.