



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

Citation: Homestead Land Holdings Limited v Gales, 2023 ONLTB 77159

Date: 2023-11-30

File Number: LTB-L-064377-22

In the matter of: 1201, 695 SURREY LANE
BURLINGTON ON L7T3Z3

Between: Homestead Land Holdings Limited Landlord

And

Patrick Gales Tenant

Homestead Land Holdings Limited (the 'Landlord') applied for an order to terminate the tenancy and evict Patrick Gales (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.

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 November 15, 2023.

Only the Landlord's Legal Representative, Lindsay Faria, and a witness for the Landlord Babu Suyal ("BS") attended the hearing.

As of 10:30AM, 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.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. However, I find it would not be unfair to grant relief from eviction pursuant to s.83 of the Act subject to conditions.
2. The Tenant was in possession of the rental unit on the date the application was filed.

Preliminary Issues

3. The Tenant contacted the Landlord's Legal Representative at 8:46AM on the day of the hearing, advising he was sick with the flu, and asked for assistance logging into the hearing. The Landlord's Legal Representative could not reach the Tenant at either of the phone numbers he provided to her. The Landlord's Legal Representative sent an e-mail to the Tenant with the Notice of Hearing attached.
4. BS also delivered a paper copy of the Notice of Hearing to the Tenant on November 6, 2023.
5. On August 17, 2023 the Board served a Notice of Hearing to the Tenant by mail, which was deemed served on August 22, 2023 pursuant to section 191(3) of the Act.
6. Given that the Tenant was served three separate times with a copy of the Notice of Hearing, I found it would be fair to proceed in his absence.
7. The Landlord requested to amend the application to remove Halton Housing as tenant. I do not find any prejudice to the Tenant in removing Halton Housing as a tenant because it is a corporation and not the actual occupant of the rental unit.
8. The Landlord has another application pending at the Board which relates to the Tenant's noncompliance with other policies and procedures in the lease agreement. This order does not address those issues.

N5 Notice of Termination

9. On October 26, 2022, the Landlord gave the Tenant an N5 notice of termination with a termination date of November 15, 2022. The notice of termination contains the following allegations:
 - The Tenant installed a security camera on the rental unit door;
 - The Tenant installed an electronic bolt lock which the Landlord does not have the code or key to; and
 - The Tenant failed to comply with pest control treatment requirements.

Pest Control

10. The Landlord did not provide evidence that the Tenant failed to comply with pest control treatment requirements within the voiding period of the N5, as there were no attempted

pest control treatments during the period from October 27 to November 2, 2022. Therefore this part of the N5 is voided.

Security Camera and Lock

11. On or about February 14, 2022, the Landlord noticed a security camera and electronic deadbolt affixed to the rental unit front door.
12. BS testified he had spoken with the Tenant regarding the removal of the camera and the dead bolt when it was first discovered in February of 2022. BS testified he had more conversations with the Tenant since then but did not provide specific dates. BS testified the Tenant would acknowledge his request to remove the items, but that never happened.
13. The Landlord also sent a letter on March 23, 2022 requesting the Tenant remove the camera and electronic dead bolt. The Tenant failed to comply with either of these requests.
14. The Landlord has concerns about the electronic deadbolt being installed. In the case of an emergency where access to the unit is required, the Landlord would not be able to enter the unit.
15. The Landlord has a duty to protect the reasonable enjoyment of other tenants and has a lawful interest in doing so. BS testified other tenants have complained about the camera installation, stating it is infringing on their privacy and they feel as though they are being spied on. BS did not have any specific dates for these complaints nor did the Landlord provide any of these complaints in writing. However, I find it likely that other tenants are concerned that their privacy is being infringed due to a security camera belonging to another tenant recording the common area hallway.
16. The Landlord must have access to the unit in case of an emergency, such as flood or fire. The installation of an electronic dead bolt presents a severe risk to the Tenant and the neighbouring units as the Landlord does not have the code. Further, the installation of the deadbolt is in direct violation of section 35(1) of the Act.
17. The Tenant did not correct the behaviour within seven days after receiving the N5 notice of termination. On November 2, 2022, BS inspected the unit door and found the security camera and electronic dead bolt were still affixed to the door. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).
18. BS provided a photo of the unit door taken November 3, 2023 showing the camera had been removed, but the electronic deadbolt still remained on the door.
19. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

Relief from eviction

2023 ONLTB 77159 (CanLII)

20. 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 subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
21. The Landlord sought termination of tenancy because of the Tenant's blatant disregard for the rules under the lease agreement.
22. I recognize the installation of these items interferes with the reasonable enjoyment of the complex and the Landlord's legal interest. However, I find the Tenant ought to be given the chance to rectify the issue and preserve his tenancy. Prejudice to the Landlord is addressed by the Landlord's right to file an application under section 78 of the Act if the Tenant doesn't comply. **It is ordered that:**
 1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
 - The Tenant shall remove the electronic deadbolt on the rental unit door by December 20th, 2023. The Tenant shall ensure the only locking mechanism on the rental unit door is one provided by the Landlord which the Landlord has key to.
 - For the duration of the tenancy, the Tenant shall not alter the locking mechanisms installed by the Landlord without written permission from the Landlord.
 - The Tenant shall not affix any form of camera to the rental unit door for the duration of the tenancy unless they receive written permission from the Landlord to do so.
 2. If the Tenant fails to comply with the conditions set out in paragraph 1 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.
 3. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
 4. If the Tenant does not pay the Landlord the full amount owing on or before December 11, 2023, the Tenant will start to owe interest. This will be simple interest calculated from December 12, 2023 at 7.00% annually on the balance outstanding.

November 30, 2023

Date Issued

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.