



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

Citation: 615302 Ontario Inc. v Lemay, 2023 ONLTB 74869

Date: 2023-11-16

File Number: LTB-L-045008-22

In the matter of: UNIT #24, 265 TWEEDSMUIR AVE,
CHATHAM ON N7M6H4

Between: 615302 Ontario Inc.
Columbus Estates Of Chatham Inc.

And

Trisha Lemay



Landlord

Tenant

615302 Ontario Inc. - Columbus Estates Of Chatham Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Trisha Lemay (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 August 24, 2023.

The Landlord's Legal Representative, Michael Stover, and the Landlord's Agent, Crystal Ryan, attended the hearing. Kelsey DeLaet appeared as witnesses for the Landlord.

As of 11:04 a.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.

At 12:02 p.m., the Tenant logged into the videoconference and was advised the hearing had been concluded in their absence.

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 is terminated on November 27, 2023.

2. The residential complex consists of 50-3 level townhomes. These home are mostly occupied by families with children.
3. On February 2, 2022, the Landlord gave the Tenant a first, voidable N5 notice of termination ('first N5 Notice'). The following allegations were contained in this notice:
 - On August 21, 2021 and September 30, 2021 the Landlord received a complaint with respect to a verbal altercation with another tenant; and
 - On October 27, 2021, the Landlord received a complaint with respect to the Tenant screaming, yelling, slamming doors, and blaring music; and
 - On November 22, 2021, the Landlord received a complaint with respect to the Tenant blaring music and banging on the walls; and
 - On November 23, 2021 and November 26, 2021, the Landlord received complaints with respect to the Tenant disturbing the other residents with excessive noise including screaming and yelling at other tenants.
4. The first N5 Notice does indicate that the Tenant has an opportunity to void the notice within 7 days by refraining from the conduct complained of in the notice. Further, it indicates that the Tenant does not have to move out if the behaviour is corrected within 7 days after receiving the notice. Therefore, the Tenant had from February 3, 2022 to February 9, 2022 (7 days) to void the behaviour and avoid eviction.
5. The Landlord's Agent submitted that no complaints with respect to the Tenants behaviour were received during the voiding period. As a result, I am satisfied that the Tenant voided the first N5 Notice.
6. On July 19, 2023, the Landlord gave the Tenant a second N5 notice of termination ('second N5 Notice'). The notice of termination contains the following allegations:
 - On May 19, 2022, the Landlord received a complaint with respect to the Tenant yelling and swearing at another tenant. The Tenant struck the other tenant and acting provocatively and rubbed herself on him. The police were called and issued the Tenant a warning to stay away from the other tenant; and
 - On May 25, 2022 and May 26, 2022, the Landlord received a complaint with respect to the Tenant causing excessive noise by playing music loudly all night; and
 - On June 22, 2022, the Landlord received a complaint with the respect to the Tenant screaming at a CAS worker in the rental unit. The Tenant then kicked the door of another tenant's unit.
7. The Landlord's Legal Representative submitted a series of emails from other tenants in the residential complex as evidence. These emails included the complaints reported to the Landlord with respect to the Tenant's behaviour. In an email dated July 20, 2022, a resident wrote:

I am not sure if you guys are aware but the situations with the tenant in Unit 24 are escalating to violence and cops are constantly here in regards to her drunken/drug induced outbursts. Like yesterday in question. She was screaming at tenants from other units. One had her children with her the other she got hands on with. I have sat silent and thought it will get better. This is not the hood. She is constantly out here screaming at other people because of this and that. Enough is enough. She is a disturbance to our/ everyone's right to live in peace. Something has to be done. I am pleading with u. I don't even like to go out and have my money coffee on the porch anymore.

8. The Landlord's Legal Representative also submitted as evidence a series of letters received by another tenant with respect to the Tenant's behaviour. These letters showed a pattern of the Tenant's substantial interference with the other residents.
9. In her testimony, the Landlord's Agent stated that despite the Tenant being served with two notices of termination and the filing of the application, her behaviour has not changed and complaints are received almost daily about excessive noise, yelling, screaming, and aggressiveness by the Tenant.
10. The Landlord's witness testified the Tenant's behaviour has caused her excessive stress and anxiety. She stated she and her 10 year old child have witnessed the Tenant's foul language, lewd acts, and aggressive behaviour in the residential complex which has caused her to stay inside her unit. She further stated she is afraid of the Tenant as her actions have drastically escalated causing her and everyone in the complex to fear for their safety.
11. Based on the uncontested evidence and submissions before me, and on a balance of probabilities, I am satisfied that the Tenant has substantially interfered with the reasonable enjoyment the other tenants in the residential complex. I say this because the Tenant's behaviour has caused significant disturbances to the other residents and her escalating, aggressive behaviour is of great concern to the Landlord. The Landlord has an obligation to the other tenants to protect their safety and the Tenant has been unwilling to change her behaviour despite numerous warnings. As a result, the application is granted and the tenancy will be terminated.
12. 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.
13. The Landlord's Legal Representative submitted that the Landlord is unaware of any circumstances of the Tenant that would cause the termination of the tenancy to be delayed or denied. Since the Tenant did not attend the hearing to give evidence of their circumstances, I am unable to determine if any relief from eviction should be considered.

Daily Compensation

14. The Tenant was required to pay the Landlord \$3,941.92 in daily compensation for use and occupation of the rental unit for the period from February 26, 2022 to August 24, 2023.
15. Based on the Monthly rent, the daily compensation is \$7.23. This amount is calculated as follows: \$220.00 x 12, divided by 365 days.
16. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

17. The Landlord collected a rent deposit of \$85.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$6.53 is owing to the Tenant for the period from September 1, 2018.
18. 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.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated on November 27, 2023. The Tenant must move out of the rental unit on or before November 27, 2023.
2. If the unit is not vacated on or before November 27, 2023, then starting November 28, 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 November 28, 2023.
4. The Tenant shall pay to the Landlord \$3,941.92, which represents compensation for the use of the unit from February 26, 2022 to August 24, 2023.
5. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. The total amount the Tenant owes the Landlord is \$3,951.39, which represents the compensation from February 26, 2022 to August 24, 2023 and costs less the last month's rent deposit and interest owed to the Tenant. The Landlord must deduct any monies received by the Tenant for rent from this amount.
7. If the Tenant does not pay the Landlord the full amount owing on or before November 27, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 28, 2023 at 7.00% annually on the balance outstanding.

November 16, 2023
Date Issued



Susan Priest
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 May 28, 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.