



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

Citation: Taylor v Rosemay, 2023 ONLTB 74206

Date: 2023-11-10

File Number:
LTB-L-058509-22

In the matter of: Main Floor, 9 SYRACUSE CRES SCARBOROUGH
ON M1E2G7

Between: Etelvina Taylor Landlord

And

Dejah Rosemay Tenant

Etelvina Taylor (the 'Landlord') applied for an order to terminate the tenancy and evict Dejah Rosemay (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 Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises;
- the number of persons living in the unit on a continuing basis is more than permitted by health, safety or housing standards.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex.

This application was heard by videoconference on November 1, 2023. Only the Landlord, the Landlord's support person, R. Heather, and the Landlord's legal representative, S. Hussain, attended the hearing.

As of 9:31 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.

Preliminary Issue:

1. The Landlord requested to amend the application to include additional claims for damages to the rental unit. The Landlord served the amended application on the Tenant via email prior to the hearing. The Landlord submitted that at the time the application was filed, they had not yet seen the extent of the damage as the Tenant was still occupying the rental unit.
2. I granted the Landlord's amendment request pursuant to Rule 15.3 of the Board's Rules of Procedure. Based on the Landlord's uncontested evidence, the Tenant was served with the amended application. Moreover, the Tenant did not attend to contest the amendment request and therefore, I see no prejudice to the Tenant in granting the request.

Determinations:

3. As explained below, the Landlord has proven on a balance of probabilities the claim for compensation in the application. Therefore, the Tenant shall pay to the Landlord \$35,000.00.
4. The Tenant was in possession of the rental unit on the date the application was filed.
5. The Tenant vacated the rental unit on January 17, 2023.

N5 Notice of Termination

6. The Tenant vacated the rental unit on January 17, 2023. As the Tenant has vacated the rental unit, there is no need to consider the merits of the Landlord's application to evict the Tenant. The Landlord's application for eviction is moot.

Compensation for damages

7. The Tenant, another occupant of the rental unit or a person whom the Tenant permitted in the residential complex wilfully or negligently caused undue damage to the rental unit or residential complex.
8. The Landlord testified that the Tenant caused a significant amount of damage to the rental unit. Submitted into evidence were photographs of cracks in the kitchen floor tiles, deep gouges on the hardwood floor, the back of the fridge was black from food rot, there were cracks on the bathroom tiles, large holes in the wall, large dents in the front door, the frame of the front door was loose, the window beside the front door was smashed, and the screen netting was broken. Based on the photographs, I am satisfied that the Tenant wilfully or negligently caused the damage, and the damage was not from regular wear and tear.

9. Also submitted into evidence was a quote from Marleau's Action Maintenance Ltd. The Landlord confirmed that the quote only identified the cost for fixing the above-noted damage and did not include any improvements to the rental unit. The amount in the quote was \$40,499.20. Based on the uncontested evidence of the Landlord, I find that the cost is reasonable in the circumstances.
10. The Landlord's claim for compensation exceeds the Board's monetary jurisdiction of \$35,000.00. The Landlord indicated a desire to proceed with the hearing of the application and voluntarily waived the portion of the claim that exceeds the Board's monetary jurisdiction.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of January 17, 2023.
2. The Tenant shall pay to the Landlord \$35,000.00, which represents the reasonable costs of repairing the damage to the rental unit, less the amount that exceeds the Board's monetary jurisdiction.
3. The total amount the Tenant owes the Landlord is \$35,000.00.
4. If the Tenant does not pay the Landlord the full amount owing on or before November 21, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 22, 2023 at 7.00% annually on the balance outstanding.

November 10, 2023

Date Issued

Camille Tancioco

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.