



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

Citation: Durham Regional Local Housing Corporation v Richardson, 2023 ONLTB 73311

Date: 2023-11-10

File Number: LTB-L-038890-22

In the matter of: 110, 1330 FOXGLOVE AVE
PICKERING ON L1W1E9

Between: Durham Regional Local Housing Corporation Landlord

And

Karen Richardson Tenant

Durham Regional Local Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Karen Richardson (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 July 12, 2023. The Landlord's agent K. Banfield, Landlord's legal representatives Z. Davis and A. Bridgeman 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 Tenant was in possession of the rental unit on the date the application was filed.

N5 Notice of Termination -Substantial interference

The First N5

1. On January 25, 2022, the Landlord gave the Tenant an N5 notice of termination, deemed served on January 30, 2022 via mail. The reasons for the first notice were due to interference

with the reasonable enjoyment of other tenants in the rental complex. As the termination date was twenty days after the date of service, the length of notice requirement was satisfied and accordingly, I find the first N5 notice valid. *The Second N5*

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3. On June 24, 2022, the Landlord gave the Tenant a second, non-voidable N5 notice of termination under section 68 of the *Residential Tenancies Act, 2006 (Act)*. A second N5 notice can be served under section 68 only to address conduct that occurred more than 8 days but less than 6 months after the first N5 notice was served.
4. The second N5 notice contains the following allegations:
 - Coughing toward and spitting at another tenant of the complex.
5. I find that the incident raised in the second N5 occurred more than 8 days, but less than 6 months of the service of the first N5 and accordingly, the second N5 is valid.
6. At the hearing, the Landlord's agent, KB testified that a resident of the complex reported to the Landlord that on June 14, 2022 the Tenant approached them on their outdoor patio and coughed toward them and spit toward them, spitting on their patio and nearly hitting them. The Landlord did not call the tenant who made the complaint.
7. The Tenant testified that she has had issues with her neighbour "Betty", the complainant who alleged the spitting incident. She testified that Betty often comes to her side of the patio snooping and harassing her. The Tenant described her back patio as being next door to Betty, but separated by a wood partition that has slats you can see through. To increase her privacy, the Tenant keeps decorations on her side of the partition to decrease visibility through the slats. She testified that she keeps to herself and does not go near Betty because they do not get along. The Tenant testified that on the date in question, she was sitting on her own patio keeping to herself, when Betty came around to her side of the partition and began taunting her by saying that no one likes her and calling her vile names. The Tenant testified that she stood up and went directly into her unit to avoid Betty. She testified that she was nowhere near Betty, but heard Betty yell out "you just spit on me!" Betty then yelled out for someone to get another tenant named "Maddie" who showed up at her patio. From there, both Maddie and Betty were yelling at her, calling her names and Maddie was pounding on the Tenant's patio door, demanding that she come out, calling her a coward when she refused to go outside. The Tenant testified that she called the police that day and the police told her to not go outside. No police reports were filed with the Board.
8. The Tenant testified that Betty and Maddie bad mouth her to everyone in the complex. She testified that "they all hate me, they all want me gone".
9. Based on the evidence before me and on a balance of probabilities, I am not satisfied that the Landlord has led sufficient evidence to establish its case. The Landlord failed to call the witnesses involved in the incident of June 14, 2022 and in contrast, the Tenant's version of

events strongly contradicts the claims made by the Landlord. Absent any refuting evidence, I accept the Tenant's undisputed testimony.

10. It is the Landlord's application, and thus the Landlord's burden to prove its case. As stated, there is insufficient evidence for me to determine that the Tenant substantially interfered with the reasonable enjoyment of another tenant and therefore, the Landlord's application must be dismissed.

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It is ordered that:

1. The Landlord's application is dismissed.

November 10, 2023

Date Issued

Donna Adams

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.