



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

Citation: DTSSAB v Booth, 2023 ONLTB 72885

Date: 2023-11-08

File Number: LTB-L-047695-22

In the matter of: 202, 25 Tweedsmuir Avenue Kirkland
Lake ON P2N3M8

Between: DTSSAB Landlord

And

Cody Booth Tenant

DTSSAB (the 'Landlord') applied for an order to terminate the tenancy and evict Cody Booth (the 'Tenant') because the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises.

This application was heard by videoconference on September 5, 2023.

Only the Landlord's agent Candice Danchuk attended the hearing. As of 9:34am, the Tenant was not present or represented at the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. On August 10, 2022, the Landlord gave the Tenant an N7 notice of termination, containing a termination date of August 21, 2022. The notice of termination alleges the Tenant and/or the Tenant's guests caused significant and costly damage to the interior drywall of the rental unit.
2. The Tenant was in possession of the rental unit when the application was filed.
3. For the reasons that follow, I also find on a balance of probabilities that the Tenant or someone living or visiting with the Tenant wilfully damaged the rental unit.

4. Candice Danchuk (CA), a housing staff member, testified she inspected the rental unit on August 10, 2022, after it was reported there was loud hammering and banging/screaming coming from within the rental unit. Upon inspection of the rental unit, CA discovered considerable damage to the interior drywall in multiple locations.
5. The Landlord produced 6 pictures taken during the inspection, showing multiple large holes in the hallway, as well as outside the bathroom, kitchen and living room walls. In one picture, the hole protrudes into the drywall and adjoining kitchen cupboards. It is clear the

File Number: LTB-L-047695-22

damage was caused by what appears to be the intentional and deliberate application of force by way of punch/kick, or blunt object.

6. CA indicated the Tenant subsequently told the Landlord that he had someone who was going to repair the damage, but as of July 27, 2023, no repairs had been undertaken. The damage was exclusive to the Tenant's unit and in the absence of an alternative explanation, I am prepared to draw the inference that the Tenant or someone the Tenant permitted in the unit caused this damage intentionally.

Section 83

7. Section 83 requires that I consider all the circumstances, including the Tenant's and the Landlord's situations to determine if it would be appropriate to grant section 83 relief from eviction.
8. The Tenant has resided at the rental unit for 2 years and the Landlord indicated the Tenant lives alone. The Landlord's agent indicated she would be agreeable to a conditional, section 78 order requiring the Tenant to repair the damage caused.
9. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, including the Landlord's expressed willingness for a section 78 (conditional) order, and find that it would not be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act, in accordance with the conditions noted below.

It is ordered that:

1. The tenancy between the Landlord and the Tenant continues if the Tenant meets the conditions set out below.
2. On or before December 31, 2023, the Tenant shall arrange for the replacement/repair of the damaged drywall within the rental unit.

3. The Tenant or the Tenant's guests shall not wilfully damage the rental unit.
4. If the Tenant fails to comply with the conditions set out in paragraph 2 or 3 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.

**November 8, 2023 Date
Issued**

Peter Nicholson
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,

File Number: LTB-L-047695-22

Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.