



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

Citation: Toronto Community Housing Corporation v Hoshowatiuk, 2023 ONLTB 72862

Date: 2023-11-06

File Numbers: LTB-L-074302-22 (TEL-18347-21)

LTB-L-076306-22 (TEL-14969-21)

In the matter of: 514, 682 WARDEN AVENUE
SCARBOROUGH ONTARIO M1L3Z9

Between: Toronto Community Housing Corporation Landlord

And

Jacklynn Sophia Careen Hoshowatiuk Tenant

Your files have been moved to the Landlord and Tenant Board's new case management system, the Tribunals Ontario Portal. Your new file numbers are LTB-L-074302-22 and LTBL-076306-22.

Toronto Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Jacklynn Sophia Careen Hoshowatiuk (the 'Tenant') because the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex involving the production of an illegal drug, the trafficking in an illegal drug or the possession of an illegal drug for the purposes of trafficking (**LTB-L-074302-22**).

The Landlord also applied for an order to terminate the tenancy and evict the Tenant because the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex and because the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex (**LTB-L-076306-22**).

These applications were heard by videoconference on October 26, 2023. The Landlord's legal representative John Edlund and the Landlord's witness Brandon Ormsby attended the hearing.

As of 10:00am, 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:

LTB-L-074302-22

1. LTB-L-074302-22 is a L2 application filed by the Landlord and is based on a N6 notice of termination served to the Tenant on June 9, 2021 with a termination date of July 15, 2021. The N6 notice alleges that the Tenant and/or their guests committed an illegal act within the rental unit and/or residential complex involving the production of an illegal drug, the trafficking in an illegal drug or the possession of an illegal drug for the purposes of trafficking
2. Brandon Ormsby provided oral testimony at the hearing. Mr. Ormsby is employed as a Detective for the Toronto Police Services.
3. On May 12, 2021, Toronto Police Services executed a search warrant of the rental unit. Upon executing the search warrant, the Tenant was present in the unit with 3 other individuals and the Police seized illegal substances pursuant to the *Controlled Drugs and Substances Act* (CDSA)
4. Mr. Ormsby testified that the following drugs were located in the rental unit:
 - 1.66 grams of Fentanyl
 - 8.36 grams of Crystal Methamphetamine
 - 5.62 grams of Cocaine and,
 - 12.08 grams of Heroin
5. The Tenant and each of their three guests were arrested and charged with possession for the purpose of trafficking a Schedule I drug under the CDSA.
6. Based on the uncontested evidence before the Board, I am satisfied that the Tenant has committed an illegal Act within the rental unit and/or residential complex pursuant to section 61(1) of the *Residential Tenancies Act, 2006* (the Act). The evidence suggests that the Tenant and their guests were in possession of illegal substances within the rental unit and charged with possession for the purpose of trafficking pursuant to the CDSA.
7. The Landlord incurred \$186.00 in costs for filing the application and is entitled to reimbursement of those costs.

LTB-L-076306-22

8. LTB-L-076306-22 is also an L2 application filed by the Landlord and is based on N6 and N7 notice of termination. Both notices were served to the Tenant on January 21, 2021 and have terminations dates of February 22, 2021. Both notices allege the same incident and allege that the Tenant has committed an illegal act within the residential complex and that the Tenant has seriously impaired the safety of another individual within the residential complex.
9. On January 30, 2020 Toronto Police Services were dispatched to the rental unit in response to a domestic dispute and stabbing that occurred in the rental unit. Mr. Ormsby testified that upon investigation, Police confirmed that the Tenant had stabbed another individual outside her rental unit after a verbal altercation. The Tenant also proceeded to punch and kick the victim after the stabbing.
10. The Tenant was arrested and charged with assault with a weapon or causing bodily harm pursuant to section 267 of the *Criminal Code* (R.S.C., 1985, c. C-46).
11. Based on the uncontested evidence before the Board, I am satisfied on a balance of probabilities that the Tenant has committed an illegal act and seriously impaired the safety of another individual within the rental unit and/or residential complex.
12. The Landlord incurred \$186.00 in costs for filing the application and is entitled to reimbursement of those costs.

Relief from eviction:

13. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
14. The Tenant was not present at the hearing to dispute the Landlord's evidence or to give evidence that the conduct would not repeat in the future. Given the severity of the incidents and the safety risk to other individuals within the residential complex, the Landlord's request for termination will be granted on an expedited basis.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before November 17, 2023.
2. If the unit is not vacated on or before November 17, 2023, then starting November 18, 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 18, 2023. **The Sheriff is requested to expedite the enforcement of this order.**
4. The Tenant shall pay to the Landlord \$372.00 for the cost of filing both applications.
5. If the Tenant does not pay the Landlord the full amount owing on or before November 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 18, 2023 at 7.00% annually on the balance outstanding.

November 6, 2023

Date Issued

Fabio Quattrociocchi

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 18, 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.

