



**Order under Section 69 / 89
Residential Tenancies Act, 2006**

Citation: Ottawa Community Housing Corporation v Waberi, 2023 ONLTB 71759

Date: 2023-10-30

File Number: LTB-L-049731-22

In the matter of: 109, 303 KING EDWARD AVE
OTTAWA ON K1N7M3

Between: Ottawa Community Housing Corporation Landlord

And

Ahmed osman Waberi Tenant

Ottawa Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Ahmed osman Waberi (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 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.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

Ottawa Community Housing Corporation (the 'Landlord') applied for an order requiring Ahmed osman Waberi (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 Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

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

Only the Landlord's Agent, A. Kifle and the Landlord's Legal Representative, G. Cormier attended the hearing.

K. Gran attended as witness for the Landlord.

As of 10:45 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.

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.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On July 7, 2022, the Landlord gave the Tenant an N5 notice of termination with a termination date of August 8, 2022. The notice of termination contains the following allegations:
 - On February 19, 2022, at around 1:20pm, you reported a broken window to OCHC Security Services (CSS). When CSS arrived on scene, they found the exterior pane of the glass had been broken into from outside. When they asked you what had happened, you had no other information to provide. The estimated cost of repair is \$500.00.
 - On March 4, 2022, at around 10:30pm, CSS received a call from you requesting the removal of an unwanted guest. On multiple occasions, you called CSS to remove a guest from your unit and then you proceeded to invite the same guest back into your unit.
 - On March 17, 2022, at around 9:40pm, you made another call to CSS about an unwanted guest, claiming that they entered through your window. You requested that CSS trespass your guest and remove them from the building. Upon the review of the video surveillance footage from that day, it was found that you and your guest were attending your unit for several hours and that you were in and out of the unit consistently. Your guest had not come in through the window like you told CSS, as the footage displayed you walking them back into your unit. It was found that after CSS removed your guest from the property, you met up with them again and brought them back into your unit. CSS advised you that you could not continue to let your guest onto the property and then ask CSS to remove them when you wished. You did not adhere to this request, and you continued the same behaviour.
 - You called CSS to remove reoccurring unwanted guest(s) on multiple occasions, including the following dates: February 23, 2022, March 7, 2022, March 10, 2022, March 17, 2022, March 21, 2022, March 30, 2022, March 31, 2022, May 21, 2022, April 4, 2022, April 7, and April 17, 2022.
 - On March 27, 2022, you reported to maintenance that your window was broken and that it had fallen off. The estimate for the repair is \$305.00.
 - Between March 31, 2022 and April 4, 2022, OCH received various complaints from tenants regarding your unit. A tenant advised TSS that there is often heavy traffic coming from your unit and that one of your guests broke your window. The tenant also stated that you bring a lot of drug-involved and homeless people into the building. Another tenant reported a noise complaint and claimed that there was a lot of screaming and banging coming from your unit. The tenant also stated that their windows are constantly getting broken as well because of your guests.

- On April 14, 2022, at around 9:25am, a guest of yours was observed to be loitering and presumably sleeping in the stairwell. The guest advised CSS that they were waiting for you to return to the unit.
- On April 25, 2022, at around 8:30am, CSS noticed that both windowpanes were smashed in the living room of your unit. When CSS spoke to you, you stated that you were planning on calling for the repair later, and then you requested for the windows to be boarded up. You claimed that you did not remember when the damage happened. The estimate for the repair is \$400.00.
- On May 12, 2022, a tenant reported to OCH that your window had been broken. CSS confirmed the window was broken. The estimate for the repair is \$150.00
- On May 21, 2022, at around 7:10am, Ottawa Police Service (OPS) received a 911 hang-up from your unit while CSS was on scene for an unwanted guest. When CSS and OPS arrived at your unit, you advised that you did not want the guest in your unit. You explained that the guest had come in through the window and that they were causing problems. During the interaction, you ignored questions OPS was asking about the situation and you were also argumentative, blaming OCH and OPS for letting the guest into your home.
- On May 24, 2022, there were multiple security reports regarding issues in your unit. The reports indicated that a guest of yours broke the window in your unit. They also indicated that you let the guest into your unit even though this guest is trespassed and is prohibited from being on the property. The estimate for the repair is \$200.00.
- On June 26, 2022, at around 4:40pm, you were observed to be having a physical altercation with your guest in the common area hallway in front of your unit. This guest currently has criminal conditions prohibiting them from attending the building.
- The total amount owing for damage to the windows are \$1,555.00.

Landlord's evidence

4. The Landlord advised that they are not pursuing the allegations in the N5 relating to behaviour, and is pursuing the allegations relating to damage.
5. K. Grant testified on behalf of the Landlord. He is employed as a tenancy support worker for Ottawa Community Housing. He testified that he is familiar with the Tenant that is subject to this application.
6. He testified that he communicated with the Tenant regarding the allegations relating to the broken windows on February 19, 2022, March 27, 2022, April 25, 2022, May 12, 2022, and May 24, 2022.
7. The Landlord submitted invoices relating to the multiple times that the Tenant's window was broken, totalling \$1,555.00.
8. The Landlord submits that the Tenant did not pay the amount requested on the N5 notice to repair the damage.
9. Based on the uncontested evidence before me, I find on balance of probabilities that 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 and the

Tenant did not pay the amount to void the notice within seven days after the notice was served. Therefore, the tenancy is terminated.

10. As the Tenancy is terminated based on the N5 notice of termination, I did not consider the merits of the N7 notice of termination.
11. The Tenant was required to pay the Landlord \$8,992.70 in daily compensation for use and occupation of the rental unit for the period from August 9, 2022 to September 5, 2023.
12. Based on the Monthly rent, the daily compensation is \$22.88. This amount is calculated as follows: \$696.00 x 12, divided by 365 days.
13. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
14. There is no last month's rent deposit.

Compensation for damages

15. As discussed above, 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
16. The Landlord has incurred reasonable costs of \$1,555.00 to repair the damage or replace property that was damaged and cannot be repaired.
17. 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. The Tenant did not attend the hearing to provide submissions regarding his circumstances or to contest the Landlord's application.

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 10, 2023.
2. If the unit is not vacated on or before November 10, 2023, then starting November 11, 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 11, 2023.
4. The Tenant shall pay to the Landlord \$8,992.70, which represents compensation for the use of the unit from August 9, 2022 to September 5, 2023.
5. The Tenant shall also pay the Landlord compensation of \$22.88 per day for the use of the unit starting September 6, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall pay to the Landlord \$1,555.00, which represents the reasonable costs of repairing the damage or replacing the damaged property.

7. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
8. The total amount the Tenant owes the Landlord is \$10,733.70.
9. If the Tenant does not pay the Landlord the full amount owing on or before November 10, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 11, 2023 at 7.00% annually on the balance outstanding.

October 30, 2023
Date Issued

Emily Robb
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 5, 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.