



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

Citation: Toronto Community Housing Corporation v Fouad, 2023 ONLTB 70270

Date: 2023-10-27

File Number: LTB-L-038820-23

In the matter of: 1723, 200 WELLESLEY ST E
TORONTO ON M4X1G3

Between: Toronto Community Housing Corporation Landlord

And

Mawahib Fouad Tenant

Toronto Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Mawahib Fouad (the 'Tenant') 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. 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 September 14, 2023.

Only the Landlord's representative J. Ratnakumaran and the Landlord's witnesses Kelly Fleming and Mitzchie Espedido attended the hearing. As of 9:24am, the Tenant was not present or represented at 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. Therefore, the Tenant must move out of the rental unit on or before November 7, 2023
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On May 5, 2023, the Landlord gave the Tenant an N7 notice of termination deemed served on May 10, 2023.
4. Section 66(1) of the Act provides a notice of termination may be given if an act or omission of the Tenant, another occupant or person permitted in the residential complex by the Tenant seriously impairs or has seriously impaired the safety of another person.
5. In this case, the notice of termination alleges the Tenant has allowed roughly 20 pigeons inside the rental unit and subsequently ignored/refused the Landlord's requests to remove all pigeons from the rental unit.
6. Mitzchie Espedido (ME), a Public Health Inspector with the City of Toronto, testified she inspected the rental unit in early April 2023 and observed approximately 25 pigeons in the

rental unit with pigeon droppings throughout. ME described the rental unit as being “unsanitary/uninhabitable” which could result in the spread of disease. ME testified the windows/balcony door were open, with pigeons coming in freely to obtain food and water. As a result, an order to comply was issued by the Municipality to the Landlord on April 11, 2023 requiring, among other things, professional cleaning and strategies to mitigate/prevent pigeons from entering the rental unit.

7. Kelly Fleming (KF), a community services coordinator for the Landlord, testified she attended at the rental unit for an inspection on May 2, 2023 and advised the conditions of the rental unit were unchanged. In particular, KF stated there were approximately 16-25 pigeons in the rental unit, with pigeons’ feces all over, leading to continued, significant health and safety concerns.
8. Based on the uncontested evidence the pigeons were freely entering the rental unit to obtain food and water and KF’s testimony that the Tenant considers the pigeons her pets, I find the Tenant has allowed the pigeons into the rental unit. Furthermore, based upon the uncontested testimony regarding the unsanitary state and threat of disease for people inside the rental unit, I also the Tenant has seriously impaired the safety of a person in the residential complex.

Section 83

9. 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.
10. The Landlord seeks eviction. KF testified she has spoken with the Tenant multiple times and sent written correspondence expressing the Landlord’s concerns and offering to assist the Tenant in accessing required supports. The Tenant has declined such offers of assistance and there has been no improvement in the condition of the rental unit.
11. Given the Tenant’s refusal to show any willingness to change and/or improve the situation notwithstanding the Landlord’s efforts, I find the tenancy to not be sustainable. The Tenant did not attend the hearing, and thus did not provide any evidence that may be relevant to my determination under s. 83.
12. 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.

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 7, 2023.
2. If the unit is not vacated on or before November 7, 2023, then starting November 8, 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 8, 2023.
4. The Tenant shall also to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before November 7, 2023, the Tenant will start to owe interest. This will be simple interest calculated from November 8, 2023 at 7.00% annually on the balance outstanding.

October 27, 2023

Date Issued

Peter Nicholson
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 8, 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.