



Order under Section 94.7 Residential Tenancies Act, 2006

Citation: Grace Hartman Housing Co-operative Inc. v Hassaballa, 2023 ONLTB 74655

Date: 2023-11-16

File Number: LTB-C-020647-23

In the matter of: 16A Forest Creek Pathway
Scarborough ON M1B5K8

Between: Grace Hartman Housing Co-operative Inc. Co-op

And

George Hassaballa, person under disability Co-op Member
and the Public Guardian and Trustee as Statutory Guardian of Property

Grace Hartman Housing Co-operative Inc. (the 'Co-op') applied for an order to end the occupancy of the member unit and evict George Hassaballa (the 'Co-op Member') because the conduct of the Co-op Member substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by the Co-op or another member of the Co-op. The Co-op also sought compensation for damages in the amount of \$8,021.77.

The application was originally brought on for hearing by videoconference on July 27, 2023. The Co-op's Property Manager, K. Lemon ('KL'), and the Co-op's representative, V. Orlandi, attended the hearing. F. Fahmy, a friend of the Co-op Member, also attended the hearing at the request of the Co-op Member but was not authorized to represent the Co-op Member. The hearing was adjourned, as described in Interim Order LTB-C-020647-23 dated August 9, 2023, as the Co-op Member had been hospitalized, on an involuntary basis, due to his diminished capacity. At the instance of the hospital, the Office of the Public Guardian and Trustee had been contacted about a statutory appointment over the Co-op Member's property. The matter was adjourned on the basis that the hearing could not proceed in the absence of the Co-op Member or of someone properly authorized to appear on his behalf and in anticipation that the representation issue would be sorted out by the time of the next appearance.

The application was again brought on for hearing by videoconference on November 2, 2023. The Co-op's Property Manager, KL, the Co-op's representative, E. Chea, and Y. Dhall ('Y D'), representative of the Office of the Public Guardian and Trustee ('PGT') on behalf of the Co-op

Member, attended the hearing. W. Lopez signed into the hearing as a potential witness for the Co-op but was not called as a witness.

As a preliminary matter YD, representing PGT, confirmed that PGT had been appointed the Coop Member's guardian of property, pursuant to the *Substitute Decisions Act, 1992*, with full authority to deal with the Co-op Member's financial and related legal affairs. YD referred to a letter dated October 19, 2023 which had been sent to the Co-op (refer document entitled GRACEH-1 filed with the Board in advance of the hearing) notifying the Co-op of the appointment. The letter advised that the Co-op Member would not be returning to the unit, that he no longer required the items remaining at the unit and that the Co-op was free to dispose of those items in an appropriate manner. YD also referred to another letter sent that same day by the PGT (refer document entitled VACATE filed with the Board) which advised that the PGT was giving up possession of the unit and terminating the Co-op Member's right of occupancy as of October 30, 2023. As of the November 2, 2023 hearing date the Co-op Member was being housing in a rooming home.

There was some discussion at the end of the hearing about how best to reflect the involvement of the Public Guardian and Trustee in the affairs of the Co-op Member. On the suggestion of YD, the name of the Co-op Member in the title of proceedings has been amended to refer to the Public Guardian and Trustee, but the references in the 'Determinations' section of this order about the actions of the Co-op Member refer only to the actions of the individual subject member.

The parties agreed that the Co-op Member's right of occupancy was to be terminated as of October 30, 2023 and requested an order to that effect. After conferring with YD, the Co-op's representative indicated that no agreement had been reached on the Co-op's claim for compensation for damages. The hearing proceeded on that issue.

Determinations

1. I find, as set out below, that the Co-op Member negligently damaged both the member unit and the residential complex by leaving the faucet in his bathroom sink running and allowing a significant amount of water to flow down into the unit below.
2. I find the following facts based on the uncontroverted testimony of the Co-op's Property Manager, KL, and on my review of the noted exhibits:
 - a) KL received a call around 6:00 pm on March 30, 2022 from the member occupying the unit below the Co-op Member's unit, saying that the lower unit was being flooded. KL responded with R, the handyman/cleaner under contract with the Coop;
 - b) On entering the lower unit KL and R discovered water coming through the ceiling of the upper floor of that unit, leaking into the lower unit around the lights in the ceiling. A lot of water was leaking into the lower unit;

- c) R and KL entered the Co-op Member's unit. The Co-op Member was in the unit but had not turned off the faucet in the bathroom sink. The sink was clogged with debris. The sink had overflowed and water was running down onto the floor. R turned off the water;
 - d) R cleared up the water in the Co-op Member's unit with a shop vac;
 - e) A plumber attended the Co-op Member's unit that same evening. He replaced the P-Plug and P-Trap, fixed the sink and uninstalled the light fixture which was located in the ceiling of the upper floor of the unit below;
 - f) The Co-op paid \$620.27 for the plumber's services that evening (Refer Exhibit 1, being pages 9 and 10 of the Co-op's 104 page Disclosure Brief, being an invoice and description of the work performed by DiversaTech Mechanical and Exhibit 2, being pages 7 and 8 of the Co-op's Brief, confirming the Co-op's payment);
 - g) R subsequently performed repair work in the lower unit. That work entailed replacing drywall and floors in various areas in the three levels of the lower unit. The water from the Co-op Member's unit had flowed down the wall of the lower unit and impacted the three levels of that unit. KL did not know how long the water had been flowing from the Co-op Member's unit but it appeared to have been over a number of hours. The member in the lower unit discovered the flood on returning from work that day and the resultant damage was significant;
 - h) The Co-op paid two invoices totalling \$7,401.50 from Quality Carpet, the contractor company for which R worked. Invoice 3984 (Refer Exhibit 3 at page 13 of the Co-op's Brief) described the work which had been done by R in the Co-op Member's unit on the night of the discovery of the flood and some initial repair work in the lower unit. Invoice 4015 (Refer Exhibit 5 at page 16 of the Co-op's Brief) described work to replace carpet and flooring and repair ceilings and walls in the lower unit. The Co-op paid \$960.50 for the first of those invoices and \$6,441.00 for the second (Refer Exhibits 4 and 6 at pages 11, 12, 14 and 15 of the Co-op's Brief); and
 - i) The repair work was done in a timely manner and, for the most part, involved work in the lower unit.
3. I find that the facts support a finding that the Co-op Member negligently caused the damage to both his own unit and to the lower unit. I find that the Co-op Member must be ordered to compensate the Co-op for the reasonable costs to repair that damage and that the Co-op's claims for recovery are reasonable and supported by the evidence in the hearing.

4. The Co-op's representative indicated that the Co-op held a Damages Deposit from the Coop member in the amount of \$127.00 and that this amount should be deducted from the amount owing to the C-op by the Cop-op Member.

It is ordered that:

1. The Co-op Member's occupancy is terminated as of October 30, 2023
2. The Co-op Member shall pay to the Co-op \$8,095.77, comprised of \$8,021.77 for the Coop's costs to repair damage for which the Co-op Member is responsible, less the \$127.00 Damage Deposit and plus the Co-op's \$201.00 application filing fee.
3. If the Co-op Member does not pay the Co-op the full \$8,095.77 owing on or before November 27, 2023, the Co-op Member will start to owe interest. This will be simple interest calculated from November 28, 2023 at 6.00% annually on the balance outstanding.

November 16, 2023
Date Issued

Lynn Mitchell

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.