



**Order under Section 69 / 88.1 / 89
Residential Tenancies Act, 2006**

Citation: Ali v Tremayne, 2023 ONLTB 68097

Date: 2023-10-18

File Number: LTB-L-048385-22

In the matter of: Basement-16 Misty Hills Trail Scarborough,
ON M1X 1S4

Between: Shujait Ali Landlord

And

Marc Taylor Tremayne

Tenant

Shujait Ali (the 'Landlord') applied for an order to terminate the tenancy and evict Marc Taylor Tremayne (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.

Further, the Landlord applied for an order to terminate the tenancy and evict the Tenant because 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 Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

Further, the Landlord also applied for an order requiring 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.

Further, the Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

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

Only the Landlord and the Landlord's Legal Representative Asif Mohammad attended the hearing.

As of 9:35 am, 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, and the Tenant is ordered to pay to the Landlord \$700.00 for damages and \$330.75 for costs with respect to substantial interference.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Tenant vacated the rental unit on October 1, 2022. Despite this, the Landlord wished to proceed with his application in order to terminate the tenancy and order the Landlord's requested costs.
4. The Landlord had served an initial N5 notice of termination upon the Tenant in accordance with s. 64 of the *Residential Tenancies Act, 2006* (the 'Act') on July 27, 2022. The Landlord had served a second N5 notice of termination upon the Tenant in accordance with s. 68(1) of the Act however, the Landlord never filed the certificate of service with respect to that notice.
5. That said, the Landlord filed his application on August 26, 2022, within 30 days of the Landlord's first N5 notice of termination in accordance with s. 69(2) of the Act and the Landlord opted to proceed with the allegations within the application's first N5 notice.
6. The Landlord testified that the Tenant would regularly play his music so loud that the walls and floor of shake. The Landlord had initially called 911 but was directed to contact ByLaw Enforcement, who had taken a reading of the noise emanating from the residential complex which led to a Provincial Offences Act certificate of offence.
7. The Landlord testified that when he had approached the Tenant about the issue, the Tenant would turn aggressive with the Landlord. The Landlord also testified that the Tenant mocked his children and broke his security cameras.
8. Also entered into evidence was a video of the Landlord and the Tenant involved in a struggle over the unit's washing machine.
9. On October 1, 2022, the Tenant had broken with main water pipe within the basement and had turned the power off in the residential complex. The Tenant was arrested and told not to return to the unit, which he never did.
10. Based on the Landlord's uncontested evidence, I am satisfied on a balance of probabilities that the Tenant substantially interfered with the Landlord's reasonable enjoyment of the unit.

Daily Compensation

11. The Tenant was required to pay the Landlord \$1,627.40 in daily compensation for use and occupation of the rental unit for the period from August 18, 2022 to October 1, 2022.
12. Based on the Monthly rent, the daily compensation is \$36.16. This amount is calculated as follows: \$1,100.00 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.

Damages

15. 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 testified that the Tenant had damaged the basement door lock, broke the water pipe, damaged the fence in the backyard, and damaged the kitchen cabinets, security cameras and dryer vents in the unit. Photos were entered as exhibits showing the damage that was caused.
17. The Landlord has incurred reasonable costs of \$700.00 to repair the damage and to replace property that was damaged and cannot be repaired.

Substantial Interference Costs

18. The Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex substantially interfered with the reasonable enjoyment of the residential complex by the Landlord or another lawful right, privilege or interest of the Landlord.
19. The Landlord testified that the Tenant left the unit in a large mess which required professional cleaning, which cost the Landlord \$330.75.
20. The Landlord has incurred reasonable out-of-pocket expenses of \$330.75. These expenses were incurred as a result of the substantial interference.

Section 83 Considerations

21. 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 not be unfair to grant relief from eviction pursuant to subsection 83(1)(a) of the Act.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated as of October 1, 2022.

2. The Tenant shall pay to the Landlord \$1,627.40, which represents compensation for the use of the unit from August 18, 2022 to October 1, 2022.
3. The Tenant shall pay to the Landlord \$700.00, which represents the reasonable costs of repairing the damage and replacing the damaged property.
4. The Tenant shall pay to the Landlord \$330.75, which represents the reasonable out-of-pocket expenses the Landlord has incurred or will incur as a result of the substantial interference.
5. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. The total amount the Tenant owes the Landlord is \$2,844.15.
7. If the Tenant does not pay the Landlord the full amount owing on or before October 1, 2022, the Tenant will start to owe interest. This will be simple interest calculated from October 2, 2022 at 7.00% annually on the balance outstanding.

October 18, 2023

Date Issued

Jagger Benham

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 April 2, 2023 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.

