



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

Citation: Spavest Inc. v Graham, 2023 ONLTB 68497

Date: 2023-10-17

File Number: LTB-L-042743-23

In the matter of: 5, 19 SPADINA RD E
KITCHENER ON N2M3X2

Between: Spavest Inc. Landlord
Vincent xinbo Lu

And

Adam Graham Tenant

Spavest Inc. and Vincent xinbo Lu (the 'Landlord') applied for an order to terminate the tenancy and evict Adam Graham (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;
- 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 Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises.

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

Spavest Inc. and Vincent xinbo Lu (the 'Landlord') also applied for an order requiring Adam Graham (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 6, 2023.

The Landlord's legal representative, Ling Xi, and the Landlord attended the hearing.

Determinations:

1. On May 29, 2023, the Landlord gave the Tenant an N6 notice of termination with a termination date of June 22, 2023. The notice of termination contains the allegations the Tenant intentionally committed an illegal act by turning on all four burners of the rental unit's stove on high and leaving the kitchen water running which flooded the kitchen and down into the mechanical room below, short circuiting the electrical panel for the fire detection system.
2. On May 29, 2023, the Landlord gave the Tenant an N7 notice of termination with a termination date of June 22, 2023. The notice of termination contains the allegations the Tenant intentionally committed an illegal act by turning on all four burners of the rental unit's stove on high and turned on the kitchen taps which flooded the rental unit and the mechanical room below disabling the electrical fire alarm main panel. This caused the panel to short out and disable the fire detection system for the residential complex building. This left the residential complex tenants in a position of serious impairment of safety with no working fire detection system.
3. The repair to the fire detection system took three days leaving the Tenant's with no fire detection system and at risk for their safety for three days.
4. The rental unit is one of 26 rental units divided between three separate buildings. The Tenant lives in a rental unit on the second floor above the maintenance room.
5. The Tenant was required to pay the Landlord \$2,203.79 in daily compensation for use and occupation of the rental unit for the period from June 23, 2023 to September 6, 2023.
6. Based on the Monthly rent, the daily compensation is \$29.00. This amount is calculated as follows: $\$882.00 \times 12$, divided by 365 days.
7. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
8. There is no last month's rent deposit.

N6 and N7 Notices: Landlord's Uncontested Evidence

9. The position of the Landlord is on May 29, 2023 at approximately sometime before 3:00am, the Landlord received a phone call from the fire department who told him his fire alarm system was triggered but shortly after had stopped sending signals. The Landlord notified the police and called his superintendent, Timothy Block (TB) to attend the residential complex and determine the issue.
10. TB arrived at the rental unit at approximately 3:15am and knocks on the Tenant's rental unit door.
11. After several minutes with no answer TB enters the Tenant's rental unit and discovers the faucet head has been damaged, the taps were left on high, so water was flooding the kitchen, and the four stove burners were turned on to the highest setting. TB turned off the water and the stove burners and proceeded to look for the Tenant.

12. TB found the Tenant hidden in the closet, with no clothes on, and in clear distress and confusion.
13. TB performed a search of the apartment and found various drug substances and paraphernalia on the Tenant's coffee table and counter.
14. The attending police questioned the Tenant and removed him from the rental unit.
15. The Tenant returned to the rental unit approximately two weeks later.
16. The Landlord received a bill from the fire department the day following the incident.
17. The Landlord submitted into evidence photos to support his claim. In the various photos there is a picture of the broken faucet, the illegal substances and the paraphernalia in the Tenant's rental unit.
18. There are two photos of the flooded mechanical room and the downstairs hallway.

Compensation for Damage

19. 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.
20. The Landlord has incurred the reasonable costs of \$20,000.00 to repair the damage caused by the actions of the Tenant.

Landlord's Evidence for Damage

21. At the hearing the Landlord testified he is not seeking the damage cost claimed in the application and did not submit evidence to the Board to support the claim.
22. The Landlord withdrew the damage claim at the hearing and submitted he is seeking eviction, daily compensation and the filing fee.

Section 83 Considerations

23. Given the Landlord's uncontested evidence and the severity of the actions of the Tenant that put the other tenants at risk, and in the absence of submissions from the Tenant himself, I am granting the Landlord his request for eviction.
24. The Landlord submitted the Tenant has no young children or persons with special requirements for consideration of the Board. 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 postpone the eviction until October 28, 2023 pursuant to subsection 83(1)(b) 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 October 28, 2023.
2. If the unit is not vacated on or before October 28, 2023, then starting October 29, 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 October 29, 2023.
4. The Tenant shall pay to the Landlord \$2,203.79, which represents compensation for the use of the unit from June 23, 2023 to September 6, 2023.
5. The Tenant shall also pay the Landlord compensation of \$29.00 per day for the use of the unit starting September 7, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. If the Tenant does not pay the Landlord the full amount owing on or before October 28, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 29, 2023 at 7.00% annually on the balance outstanding.

October 17, 2023

Date Issued

Greg Brocanier

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 29, 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.