



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

Citation: Housing Development Corporation v Jensen, 2023 ONLTB 65174

Date: 2023-10-03

File Number: LTB-L-050944-22

In the matter of: 405, 122 BASE LINE RD W
LONDON ON N6J1V2

Between: Housing Development Corporation Landlord

And

Erika Jensen Tenant

Housing Development Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Erika Jensen (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 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 19, 2023.

Only the Landlord's Representative Richard Dehaan attended the hearing.

As of 12:10pm, 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:

- As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the Tenant must vacate the rental unit by October 31, 2023.
- The Tenant was in possession of the rental unit on the date the application was filed.
- On August 19, 2022, the Landlord gave the Tenant an N5 notice of termination deemed served that date. The notice of termination alleges substantial interference, specifically with respect to the condition of the rental unit. Schedule A outlines a series of issues including the living room floors and countertops being covered in garbage, the kitchen and bedrooms being covered with clutter and garbage, the bedroom walls being drawn on with crayon and marker, the bathroom being extremely dirty, grime being in several areas of the

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rental unit, a lack of egress throughout the rental unit, spoiled food and insects being in the bedroom, etc.

4. The Tenant did not stop the conduct or activity within seven days after receiving the N5 notice of termination. The Landlord's first inspection giving rise to the N5 notice was on July 15, 2022. The Landlord's second inspection on August 18, 2022 found the same issues as outlined in Schedule A. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (the "Act").
5. The Landlord submitted 60 photos of both inspections and a third inspection on September 12, 2023 which was 7 days before the hearing (Landlord Exhibit 1). At the hearing, the Landlord went through all of the photos.
6. The rental unit has issues in every single room and area. The bathroom has garbage and dead plants everywhere, the bathtub is filled with water and clutter and clothes, the mirrors are drawn on, and there are feces spread around the toilet and the vanity. The bedroom 1 walls are drawn on and there is only 20% of the floor that is useable due to there being clutter everywhere. The hallways have clutter and garbage everywhere and more drawings on the walls. The kitchen floors have clutter and garbage everywhere and more drawings on the walls and there is spoiled food on the oven and countertop. The bedroom 2 floors are completely covered in clutter with no egress whatsoever. The issues have gotten much worse on the September 12, 2023 inspection but my analysis is confined to the allegations in the N5 notice for the purpose of termination.
7. Section 33 of the Act states that the Tenant is responsible for ordinary cleanliness of the rental unit.
8. The Landlord's uncontested evidence establishes that the condition of rental unit substantially interferes with the Landlord's reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant. The condition of the rental unit has a significant impact on the Landlord, and it will require significant time and costs to restore the unit to a rentable condition. By allowing the tenancy to continue, it is clear that the condition will continue to worsen as illustrated by the deterioration of the rental unit with each subsequent inspection culminating in the final inspection 7 days before the hearing where the rental unit was in its worst state.
9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. The Landlord collected a rent deposit of \$692.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$26.87 is owing to the Tenant for the period from March 2, 2022 to September 19, 2023.
11. In accordance with subsection 106(10) of the Act, the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
12. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act and find that it would *not* be unfair to postpone the eviction until October 31, 2023 pursuant to subsection 83(1)(b) of the Act. While the Tenant was not present to explain any circumstances for relief, it is not unfair to delay the eviction 2.5 more weeks to provide them some more time to find another place to live.

13. At the hearing, the Landlord did not address any daily compensation owing from the termination date.

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 31, 2023.
2. If the unit is not vacated on or before October 31, 2023, then starting November 1, 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 1, 2023.
4. The Tenant shall pay the Landlord compensation of \$22.75 per day for the use of the unit starting September 20, 2023 until the date the Tenant moves out of the unit.
5. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
6. The Landlord owes \$718.87 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
7. The total amount the Landlord owes the Tenant is \$532.87, before any daily compensation from the hearing date.
8. The Landlord and the Tenant shall pay the other any amount owing from this order.

October 3, 2023

Date Issued

Elan Shemtov

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 1, 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.