



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

Citation: Sharma v Reid, 2023 ONLTB 63468

Date: 2023-09-21

File Number: LTB-L-046947-22

In the matter of: unit 3B, 26 LANSDOWNE AVE
TORONTO ON M6K2V8

Between: Sushil Sharma Landlord

And

Davin Reid Tenant

Sushil Sharma (the 'Landlord') applied for an order to terminate the tenancy and evict Davin Reid (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 7, 2023.

Only the Landlord's Representative, Ilan Shingait, and the Landlord attended the hearing.

As of 9:53am, 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. Therefore, the tenancy shall be terminated on October 2, 2023.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On August 9, 2022, the Landlord served the Tenant an N5 notice of termination. The notice of termination alleges that the Tenant keeps the rental unit in an unclean state that substantially interferes with the Landlord's and other tenants reasonable enjoyment and legal rights of the rental unit and complex.
4. The Tenant did not stop the conduct or activity within seven days after receiving the N5 notice of termination. The Tenant did not remove trash or clean the rental unit to bring the

unit to a state of reasonable cleanliness. 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 presented photos of the Tenant's rental unit from August 3, 2022, which showed that the rental unit had a substantial amount of clutter. The photos showed that there was little to no floor exposed, and the amount of garbage in some of the unit was approximately two feet deep. The Landlord pointed out that there were some 2L bottles in the unit that were filled with the Tenant's urine.
6. The Landlord testified that he entered the rental unit on August 16, 2022, and discovered that the unit had not been cleaned, thus confirming that the Tenant did not void the N5.
7. The Landlord presented photographic evidence from inspections on July 16, 2023, and August 16, 2023, showing that the amount of clutter and garbage in the rental unit had increased since the notice had been served to the Tenant.
8. The Landlord testified that the odour emanating from the rental unit is interfering with other residents of the complex. The current state of the rental unit makes it nearly impossible to conduct any pest control that could be effective.
9. The Landlord testified that he has offered to help the Tenant clean the rental unit, but the Tenant consistently responds in a belligerent manner when the offer is made.
10. Section 33 of the Act states:

33 The tenant is responsible for ordinary cleanliness of the rental unit, except to the extent that the tenancy agreement requires the landlord to clean it.

11. Section 64(1) of the Act states:

64 (1) A landlord may give a tenant notice of termination of the tenancy if the conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant is such that it substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another tenant or substantially interferes with another lawful right, privilege or interest of the landlord or another tenant.

12. Based on the evidence before me, I am satisfied that the Tenant is substantially interfering with the Landlord's and other tenants' reasonable enjoyment of the rental complex by keeping the Tenant's rental unit in such an unclean state.
13. The Tenant was required to pay the Landlord \$6,654.25 in daily compensation for use and occupation of the rental unit for the period from September 5, 2022, to September 7, 2023.
14. Based on the Monthly rent, the daily compensation is \$18.08. This amount is calculated as follows: \$550.00 x 12, divided by 365 days.
15. The Landlord collected a rent deposit of \$550.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$58.28 is owing to the Tenant for the period from April 1, 2017, to September 7, 2023.

16. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
17. 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 October 2, 2023.
2. If the unit is not vacated on or before October 2, 2023, then starting October 3, 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 3, 2023.
4. The Tenant shall pay to the Landlord \$6,654.25, minus any rent already paid to the Landlord. This amount represents compensation for the use of the unit from September 5, 2022, to September 7, 2023.
5. The Tenant shall also pay the Landlord compensation of \$18.08 per day for the use of the unit starting September 8, 2023, until the date the Tenant moves out of the unit.
6. The Landlord owes \$608.28 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 Tenant owes the Landlord is \$6,045.97 minus any rent paid to the Landlord since September 5, 2022.
8. If the Tenant does not pay the Landlord the full amount owing on or before October 2, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 3, 2023, at 6.00% annually on the balance outstanding.

September 21, 2023

Date Issued

Robert Brown

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 3, 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.