



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

Citation: Hall v Stephens, 2023 ONLTB 62724

Date: 2023-09-20

File Number: LTB-L-002735-22

2023 ONLTB 62724 (CanLII)

In the matter of: 217770 CONCESSION 3 RR 3
OWEN SOUND ON N4K 5N5

Between: Everett Hall Landlords
Marylon Hall

And

Karen Stephens Tenants
Chad Stephens

Everett Hall and Marylon Hall (the 'Landlords') applied for an order to terminate the tenancy and evict Karen Stephens and Chad Stephens (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe (L1 Application).

The Landlords also applied for an order to terminate the tenancy and evict the Tenants because:

- the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlords or another tenant (L2 Application).

The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on August 22, 2023.

Only the Landlords Everett Hall and Marylon Hall attended the hearing.

As of 2:15 p.m. the Tenants were 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.

The Landlords were unprepared for the hearing. I stood the matter down to permit the Landlords time to submit a L1/L9 information update sheet. The hearing resumed a 2:41 p.m.

Determinations:

L1 Application

1. The Tenants vacated the rental unit on June 6, 2023. The Tenants were in possession of the rental unit on the date the application was filed.
2. The Landlords amended their application to an L9 application solely for arrears of rent and the filing fee. The Landlords were seeking the arrears outstanding to June 6, 2023.
3. The Tenants did not pay the total rent they were required to pay for the period from November 1, 2021 to June 6, 2023.
4. The lawful rent is \$850.00. It is due on the 1st day of each month.
5. The Tenants has made \$8,500.00 in payments since the application was filed.
6. The tenancy ended on June 6, 2023 as a result of the Tenants moving out. Therefore, the Tenant's obligation to pay rent also ended on that date.
7. The rent arrears and daily compensation owing to June 6, 2023 are \$6,967.67
8. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. The Landlords collected a rent deposit of \$850.00 from the Tenant and this deposit is still being held by the Landlord. The rent deposit can only be applied to the last rental period of the tenancy if the tenancy is terminated.

L2 Application

10. As explained below, the Landlords have not proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the application is dismissed.
11. On any application before the Board, the person who alleges any particular incident or event occurred has the burden of leading sufficient evidence to establish that it is more likely than not that their version of events is true. In this case that burden falls on the Landlords to establish that the Tenants or another occupant of the rental unit or someone the Tenants permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlords or another tenant.
12. Based on the evidence before me, I am not satisfied that the Tenants were responsible for the behaviour or for the alleged damages caused by a dog who was owned not by the Tenants but by an owner of a neighbouring property.
13. The Landlord, Mr. Hall, described three occasions when he allegedly saw the dog growl aggressively at himself or others. The Landlords provided no other witnesses or evidence to

corroborate his testimony about the dog's behaviour. Mr. Hall further testified that he only once provided notice to the Tenants that the dog's behaviour was unacceptable,

File Number: LTB-L-002735-22

intimidating or aggressive. Mr. Hall further testified that the dog was not owned by the Tenant and provided no evidence the dog was the Tenant's responsibility, or the Tenants permitted the dog on the property. In the absence of anything other than the observations, I am not satisfied on the balance of probabilities that the Tenants, another occupant of the rental unit or someone the Tenants permitted in the residential complex is seriously impairing substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlords.

14. At the hearing, the Landlords requested to stand down the matter to provide additional time to prepare their evidence when it became clear that the Landlords had produced insufficient evidence to support the application. This request was denied as the matter had already been stood down to provide the Landlords time to submit evidence for their L1 Application. The Landlords knew or ought to have known the elements of their own case and been prepared to present sufficient evidence to make their case. If for some reason, the Landlords were unprepared to make their case, an adjournment request could have been made prior to the hearing of any evidence. This matter was already adjourned on September 6, 2022 which already provided the Landlords with additional time to prepare for the hearing. Matters will not be stood down just because a party perceives they have prepared their evidence poorly after it has been presented.
15. As there is insufficient evidence to satisfy me that the Tenants have breached the Act, the Landlord's application must be dismissed.

It is ordered that:

L9 Application

1. The Tenants shall pay to the Landlords \$6,244.17. This amount includes rent arrears owing up to June 6, 2023 and the cost of the application, less the rent deposit and the interest owing on the rent deposit.
2. If the Tenants do not pay the Landlords the full amount owing on or before October 1, 2023, the Tenant will start to owe interest. This will be simple interest calculated from October 2, 2023 at 6.00% annually on the balance outstanding.

L2 Application

1. The Landlord's application is dismissed.

September 20, 2023
Date Issued

Greg Witt
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.