



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

Citation: 1620722 ONTARIO INC. v Aagaou, 2023 ONLTB 55918

Date: 2023-08-11

File Number: LTB-L-064670-22

In the matter of: ROOM UPSTAIRS TO THE RIGHT, 1260 BROADVIEW AVE EAST
YORK ON M4K2T4

Between: 1620722 ONTARIO INC. Landlord

And

Mohamed Aagaou Tenant

1620722 ONTARIO INC. (the 'Landlord') applied for an order to terminate the tenancy and evict Mohamed Aagaou (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 requires vacant possession of the rental unit in order to do major repairs or renovations to the unit.

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 May 29, 2023 at 9:00 a.m.

The Landlord, represented by Demetrios Bakreski, a licensed Paralegal, and the Tenant attended the hearing.

Determinations:

N13 Notice of Termination

1. On October 12, 2022, the Landlord gave the Tenant an N13 notice of termination, Notice to End your Tenancy Because the Landlord Wants to Demolish the Rental Unit, Repair it or Convert it to Another Use, (the "Notice") with the termination date of February 28, 2023. The Landlord claims vacant possession of the rental unit is required for extensive repairs and to convert it to another use.

Residential Tenancies Act, 2006 (the “Act) requirements

2. An application in order to be successful must be in accordance with the Act and have fulfilled the 2 following essential elements

Compensation

3. Section 50 of the Act states the following

“landlord shall compensate a tenant who receives notice of termination of a tenancy under section 50 for the purpose of repairs or renovations in an amount equal to three months rent or shall offer the tenant another rental unit acceptable to the tenant if,

- (a) the tenant does not give the landlord notice under subsection 53 (2) with respect to the rental unit;*
- (b) the residential complex in which the rental unit is located contains at least five residential units; and*
- (c) the repair or renovation was not ordered to be carried out under the authority of this or any other Act.”*

Building Permits

4. Section 73 of the Act states the following;

The Board shall not make an order terminating a tenancy and evicting the tenant in an application under section 69 based on a notice of termination under section 50 unless it is satisfied that

- “(a) the landlord intends in good faith to carry out the activity on which the notice of termination was based; and*
- (b) the landlord has,*
 - (i) obtained all necessary permits or other authority that may be required to carry out the activity on which the notice of termination was based, or*
 - (ii) has taken all reasonable steps to obtain all necessary permits or other authority that may be required to carry out the activity on which the notice of termination was based if it is not possible to obtain the permits or other authority until the rental unit is vacant.”*

Submissions

5. The Landlord's submission is that the Tenant is in arrears of rent which can be considered compensation.
6. The Tenant disputes receiving any sort of compensation.
7. The Landlord claims that there may have been a discussion, text messages between the parties, regarding compensation and was given ample time to locate and submit evidence to the Board supporting their claim however was unable to do so.

Findings

8. In this case the Landlord has not established that they have provided the Tenant with the required three month compensation and therefore the Board must dismiss the application.

Notice to End your Tenancy For Interfering with Other, Damage or Overcrowding (the N5 Notice)

9. On October 12, 2022, the Landlord gave the Tenant an N5 notice of termination with a termination date of Nov 2, 2022. The notice of termination contains the following allegations:

"Date – On-going

The home was converted to a rooming house by the previous owner. Your Landlord has been reprimanded by the City in the past, as rooming houses are not permitted in the former of East York."

Submissions

10. The Landlord's submissions are that they bought the rental complex as currently configured. The rental unit/complex does not meet local regulations and the City has "reprimanded" them in the past. The Landlord further asserts that because the Tenant refuses to move they are interfering with the reasonable enjoyment or substantially interferes with another lawful right, privilege or interest of the rental complex by the Landlord.
11. The Tenant submits that they rented the rental unit from the former Landlord and the current Landlord should have know what they were purchasing and the agreements they were entering into as a result of the purchase.

Residential Tenancies Act, 2006 (the "Act) requirements

12. Section 64 of the Act states the following;

“(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.”

13. Section 18 of the Act states the following;

“Covenants concerning things related to a rental unit or the residential complex in which it is located run with the land, whether or not the things are in existence at the time the covenants are made.”

This essentially means that things relating to a rental unit, the person who buys and or acquires the property accepts the “tenancy”.

Findings

14. In this case the Landlord assumed the tenancy when they purchased the property. The Tenant’s conduct, specifically the Landlord/Tenant relationship, does not rise to the level required to make a finding that it substantially interferes with the Landlord’s reasonable enjoyment of the premises or substantially interferes with another lawful right, privilege or interest of the landlord or another tenant, therefore the Board must dismiss the application.

It is ordered that:

1. The Landlord’s application is dismissed.

August 18, 2023

Date Issued

Peter Pavlovic

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.