



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

Citation: Canadian Mental Health Association - Toronto Branch v Stuart, 2023 ONLTB 54401

Date: 2023-08-03

File Number: LTB-L-049997-22

In the matter of: 403, 55 WYNFORD HEIGHTS CRES
Toronto ON M3C1L4

Between: Canadian Mental Health Association - Toronto Branch Landlord

And

Bruce Stuart Tenant

Canadian Mental Health Association - Toronto Branch (the 'Landlord') applied for an order to terminate the tenancy and evict Bruce Stuart (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 July 17, 2023.

Only the Landlord attended the hearing. The Landlord was represented by Stephanie Ng.

Also in attendance was the Landlord's witness, Blima Firestone.

As of 1:19pm, 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.

The Landlord testified that the Tenant was reminded of the hearing on Friday July 14, 2023.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. **Therefore, an order shall issue terminating the tenancy August 14, 2023.**
2. The Tenant was in possession of the rental unit on the date the application was filed and continued to be in possession of the rental unit as of the hearing date.

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3. By way of background this is a monthly tenancy in which rent is due on the first of the month in the amount of \$522.00.
4. The residential complex is an apartment building that comprises of 350 units. The Tenant's unit is a one-bedroom unit.

N5 Notice of Termination

5. On August 18, 2022, the Landlord gave the Tenant an N5 notice of termination pursuant to subsection 64(1) of the Act with a termination date of September 13, 2022. The notice of termination contained allegations of excessive clutter and garbage in the rental unit and the Tenant not being prepared for pest control treatment of her unit.
6. The Landlord's uncontested evidence was, the Tenant did not stop the conduct or activity or correct the omission within seven days after receiving the N5 notice of termination which was between August 23-31, 2022. Specifically, another inspection of the unit took place on August 30, 2022 to find that the unit was unsanitary with clothing sprawled across the floors, and the kitchen and living room filled with garbage. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).
7. The Landlord's witness, BF, who has been the property manager for the past three years, testified that the issue has been ongoing with the Tenant for the past few years and only rectified when the Landlord did a deep cleaning of the unit 1.5 years ago.
8. She testified that the unit was inspected on June 2, July 6, July 25 and July 28 as well as August 12, 2022, and the unit had returned to an unsanitary state. Photographs were submitted to the Board to show the kitchen countertops stained and filled with garbage, the stove stained and piled with unclean pots, the living room furniture and floor piled with garbage and the bedroom sprawled with clothes all over the floor, with limited egress. At the last inspection, the Tenant also failed to prepare for the pest control treatment and so the unit could not be treated.
9. When the Landlord returned to the unit on August 30, 2022 to inspect, the condition of the rental unit remained identical. Since then, another deep clean took place at the Tenant's unit in Septemebr 2022, which brought it back to a clean state and the Landlord was able to treat the unit for pests. However, two months later, on the second scheduled date, the unit returned to its unsanitary state, with a foul odour permeating from the unit into the hallway.
10. In March 2023, the Landlord conducted another inspection of the rental unit to find it remained in its unsanitary state; photographs from this inspection were also submitted that show the condition as being similar to the photographs from the inspection seven months prior – although the bedroom had fewer clothing on the floor. In May 2023, further complaints of the stench from the Tenant's unit were made to the Landlord.
11. The Landlord submits the Tenant has failed to rectify their behaviour and keep the rental unit in an ordinary state of cleanliness; the only time this is possible is when an extreme clean treatment occurs. The Landlord submits they have tried everything in their power to help the Tenant including reaching out to his caseworkers, but the Tenant has not been cooperative. As such, the Landlord seeks a termination of the tenancy.

12. Based on the evidence before the Board, I am satisfied that the Tenant has substantially interfered with the Landlord's lawful rights, interests and privileges by failing to keep the rental unit in an ordinary state of cleanliness and having garbage and clutter at the rental unit. I say this based on the Landlord's uncontested evidence and the photographs submitted of the state of the rental unit.
13. As the Tenant failed to attend the hearing, no measures, if any, could be considered or put in place to ensure the unit is brought to a reasonable state of cleanliness or what circumstances the Board should consider as to whether or not I should delay or deny terminating the tenancy. Thus, the Landlord's request is granted.
14. 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. The Landlord is unaware of any reasons that justify a delay in eviction.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. There is no last month's rent deposit.
17. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out on or before August 14, 2023.
2. If the unit is not vacated on or before August 14, 2023, then starting August 15, 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 August 15, 2023.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before August 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from August 15, 2023 at 6.00% annually on the balance outstanding.

August 3, 2023
Date Issued

 Sonia Anwar-Ali
 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 February 15, 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.