



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

Citation: Centretown Citizens Ottawa Corporation v Clement, 2023 ONLTB 52747

Date: 2023-08-03

File Number: LTB-L-031061-22

In the matter of: 204, 54 Primrose Avenue East
Ottawa ON K1R6L9

Between: Centretown Citizens Ottawa Corporation Landlord

And

Barbara Clement Tenant

QUINN THIELE and Centretown Citizens Ottawa Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Barbara Clement (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.

This application was heard by videoconference on June 12, 2023.

Only the Landlord's representative, Michael Thiele and the Landlord's Agent, Alison Hockin attended the hearing.

As of 12:42 p.m., 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 and/or the claim for compensation in the application. Therefore, the application is granted and the tenancy will terminate.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N5 Notice of Termination

Substantial interference

3. On December 23, 2021, the Landlord gave the Tenant a first, voidable N5 notice of termination. The notice of termination alleges the tenant, the tenant's guest or another occupant of the rental unit substantially interfered with the reasonable enjoyment or lawful

right, privilege or interest of the Landlord or another tenant. Specifically, the notice states that: on December 23, 2021 the Tenant allowed Mike Ouellette to visit their rental unit; must stop all disturbances coming from your apartment including yelling and fighting with your guests; stop the high volume of people coming in and out of your apartment; ensure that guests or any one visiting the building do not roam or loiter in any common areas; do not allow anyone into the building who do not live here; you and your guests do not make any other residents nervous or uncomfortable. There were disturbances which included yelling and fighting and there were a high volume of people coming in and out of the Tenant's apartment. These complaints have been ongoing since February 19, 2019.

4. The N5 notice was served under served under section 64(1) of the *Residential Tenancies Act, 2006* (Act):

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.

5. The Tenant did not void the notice in accordance with section 64(3) of the Act as there were further incidents during the seven-day period following the service of the first N5 notice. Therefore, the Landlord was allowed to give the Tenant a second, non-voidable N5 notice of termination under section 68 of the *Residential Tenancies Act, 2006* (Act) as a result of additional incidents that occurred over the next six months.
6. On May 26, 2022, the Landlord gave the Tenant a second N5 notice of termination. The notice of termination contains the following allegations:
- December 29, 2021 reports from the Tenant's daughter about low banging and fight from the rental unit. The police were called as the neighbours heard the altercation and felt uneasy and unsafe.
 - January 5, 2022 reports from other tenants about lots of guests coming and going from your rental unit.
 - January 22/23, 2022 written reports about loud noises and dragging furniture from your rental unit. In addition, the Tenant allowed her dogs to urinate and defecate at the back door and did not clean up.
 - January 31, 2022 another written report about the Tenant not cleaning up after the dogs. In addition, Mike Ouellette was seen entering the building.
 - February 7, 2022 written report about the Tenant not cleaning up after the dogs.
 - February 8, 2022 written report about Mike leaving the building.

- February 22, 2022 reports of what sounded like an all-night party in the rental unit and the music was loud until 3 am.
 - March 2, 2022 written report about loud music coming from the rental unit starting at 7:45p.m. and lasting overnight.
 - March 14, 2022 two verbal complaints about a lot of people coming and going from the rental unit at 2 am and 4 am. The guests were forcing the door open instead of buzzing the Tenant. One of the guests identified that they were trying to gain access to the building to do drugs.
 - April 15, 2022 written report about the door of the rental unit slamming loudly and lots of guests coming and going. In addition, the dog was hearing barking a lot.
 - April 29, 2022 Mike was seen leaving the building around 12:45 p.m. he appeared to be intoxicated.
 - May 2, 2022 Mike was seen tampering with the back door of the building to gain entry.
 - May 14, 2022 written report about Mike tampering and vandalizing the front and back doors of the building in order to get inside. The Landlord has had to order replacement doors for the front and back due to the ongoing tampering and vandalism caused by your guest.
 - May 16, 2022 verbal report that Mike has been asking other residents of the building to give him access to the building causes the other residents to feel uncomfortable.
7. Allison Hockin is an employee of the Landlord who works at the residential complex as a Rental Officer. Ms. Hockin testified that the Tenant has had a lot of regular visitors invited by Mike Clement aka Mike Ouellette. Mike has addiction issues which has caused the Tenant to start using again. The Tenant's daughter has attempted to help her out to no avail. Mike has been tampering with the doors and propping them open. Mike had been removed from the building by police and issued a no trespass order. The loud noises, music and fights continues into the late night and early hours of the morning.
 8. The allegations on the 2nd N5 that the Tenant continues to have issues with loud banging, loud music and fighting; high number of guests coming and going from the rental unit and guests of the Tenant are tampering with the doors and propping the doors open.
 9. The Tenant also has issues with her dog. The Tenant has had issues with the dog barking and disturbing the neighbours in addition to not cleaning up after the dog.

Analysis

10. I find that the Tenant, an occupant of the Tenant's rental unit or a person permitted in the residential complex by the Tenant conduct has substantially interfered with the Landlord's and/or another tenants' reasonable enjoyment of the residential complex and or with the

lawful right, privilege or interest of the Landlord and/or another tenant. I am satisfied with the evidence provided by the Landlord that Tenant failing to clean up from the dog; loud banging, loud music and fighting; high number of guests coming and going from the rental unit and guests tampering with the entry doors have caused substantial interference with the Landlord's and/or another tenants' reasonable enjoyment of the residential complex and or with the lawful right, privilege or interest of the Landlord and/or another tenant

11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. The Landlord collected a rent deposit of \$740.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$50.70 is owing to the Tenant for the period from October 15, 2018 to June 12, 2023.
13. 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.

Relief from eviction

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.
15. The Tenants did not attend the hearing to give evidence of their circumstances and thus, I did not have the opportunity to hear their evidence regarding their circumstances or to dispute the Landlord's application for an eviction order.

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 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 the Landlord compensation of \$25.32 per day for the use of the unit starting June 13, 2023 until the date the Tenant moves out of the unit.
5. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. The Landlord owes \$790.70 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. 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

Camille Clyne
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 12, 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.