



**Order under Section 100,
Residential Tenancies Act, 2006**

Citation: Summit Properties Inc. v O' Neil, 2023 ONLTB 50529

Date: 2023-07-20

File Number: LTB-L-068438-22

In the matter of: 1010, 740 PROUDFOOT LANE
LONDON ON N6H5H2

Between: Summit Properties Inc. Landlord

And

The Estate of Terrence O' Neil Tenant

And

Jeremy O' Neil Unauthorized Occupant

Summit Properties Inc. (the 'Landlord') applied for an order to terminate the tenancy of Terrence O' Neil (the 'Tenant') and evict Jeremy O' Neil (the 'Unauthorized Occupant') because the Tenant transferred occupancy of the rental unit to the Unauthorized Occupant without the Landlord's consent. The Landlord also applied for compensation by the Unauthorized Occupant for the use of the rental unit.

This application was heard by videoconference on June 1, 2023. The Landlord's agent, H. Fernandes, the Landlord's legal representative, G. Kukor Lang, and the Tenant's agent J. O' Neil attended the hearing.

Determinations:

1. The Tenant died November 1, 2021, however the unauthorized occupant remained in the unit for more than 30 days after the death of the Tenant. Therefore, in keeping with the language of section 91 of the Act, I find that the tenancy legally terminated on December 1, 2021.

2. Since the individual remained in the unit after December 1, 2021, and therefore I find that the Tenant transferred occupancy of the rental unit to the Unauthorized Occupant in a manner that was not authorized by the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord did not enter into a tenancy agreement with this person.

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3. The Unauthorized Occupant was in possession on the date that the application was filed. However, the Unauthorized Occupant vacated the unit on November 21, 2022. The Landlord sought daily compensation for the time period the Unauthorized Occupant remained in the rental unit.

Daily Compensation

4. The Landlord is entitled to compensation for the use and occupation of the rental unit by the Unauthorized Occupant.
5. The Landlord applied the last months rent deposit to November 2021, which was the last month of the tenancy and there was a credit due to an over-payment of rent on the Tenant's account which covered the daily rent for the period of December 1, 2021 to December 31, 2021. The Landlord also waved the daily rent from January 1, 2022 to January 3, 2022.
6. Based on the monthly rent of \$1,282.16, the daily compensation is \$42.15. This amount is calculated as follows: monthly rent x 12 months, divided by 365 days. The Unauthorized Occupant remained in the unit for a total of 322 days.
7. The Unauthorized Occupant did not make any payments towards compensation.
8. The Unauthorized Occupant owes the Landlord \$13,572.30 in daily compensation for use and occupation of the rental unit for the period from January 4, 2022 to November 21, 2022 (the date the Unauthorized Occupant moved out of the rental unit).
9. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.

It is ordered that:

1. The Unauthorized Occupant shall pay to the Landlord \$13,572.30 which represents daily compensation for use of the rental unit from January 4, 2022 to November 21, 2022.

2. The Unauthorized Occupant shall also pay to the Landlord \$201.00 for the cost of filing the application.
3. The total amount the Unauthorized Occupant owes the Landlord is \$13,773.30.
4. If the Unauthorized Occupant does not pay the Landlord the full amount owing on or before July 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from August 1, 2023 at 6.00% annually on the balance outstanding.

July 20, 2023
Date Issued

Curtis Begg
Member, Landlord and Tenant Board

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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.