



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

Citation: CAPREIT LIMITED PARTNERSHIP v Dixon, 2023 ONLTB 49777

Date: 2023-07-18

File Number: LTB-L-034973-23

In the matter of: 317, 2543 LAKE SHORE BLVD W
TORONTO ON M8V1E9

Between: CAPREIT LIMITED PARTNERSHIP Landlord

And

Cecilia Karen Dixon Tenant

CAPREIT LIMITED PARTNERSHIP (the 'Landlord') applied for an order to terminate the tenancy and evict Cecilia Karen Dixon (the 'Tenant') because the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex; and because the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex.

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 5, 2023.

The Landlord's Agent, Allan Altamirano ('AA'), the Landlord's Legal Representative, Geoff Paine, and the Tenant attended the hearing.

Determinations:

Adjournment Request Denied

1. At the start of the hearing, the Tenant requested an adjournment because the Tenant says she only received the Notice of Hearing on June 30, 2023, she did not receive the disclosure from the Landlord and needs time to retain counsel. The Tenant's adjournment request was denied for the following reasons.
2. I was not satisfied that an adjournment was necessary to have an adequate hearing. The Landlord's disclosure was emailed to the Tenant on June 28, 2023. The Tenant confirmed the email address used by the Landlord was correct and did not dispute that she has a history of corresponding with the Landlord using her email address. The Tenant also confirms she did receive some of the Landlord's disclosure. However, the Landlord's disclosure was sent to the Tenant in one email with multiple attachments. It is unlikely that the Tenant would have received some of the Landlord's documents and not others.

Accordingly, I was satisfied that the Landlord's disclosure likely came to the attention of the Tenant.

3. The Board is required to adopt the most expeditious method of determining the questions arising in a proceeding that affords parties an adequate opportunity to know the issues and be heard on the matter. The Tenant received the N6 and N7 notices of termination on March 16, 2023. The right to representation is not absolute. The Tenant has had over 3 months to retain representation. I was not satisfied that the Tenant took reasonable steps to do so. The Board's records indicate the Notice of Hearing was mailed to the rental unit on June 21, 2023. It is deemed sufficiently given to the Tenant on June 26, 2023. I do not accept the Tenant's bald assertion that she received the Notice of Hearing on June 30, 2023. The issues in the application are not complex – they relate to an alleged assault on January 29, 2023. In my view, ten days notice is reasonable notice given the relatively straightforward issues in the application.
4. Finally, given the serious nature of the allegations it would have been prejudicial to the Landlord to adjourn.

Termination of the Tenancy

5. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, Landlord's application is granted.
6. The Tenant is in possession of the rental unit.
7. On March 16, 2023, the Landlord gave the Tenant an N6 and N7 notice of termination. The notices of termination allege that on January 29, 2023, the Tenant assaulted another tenant in the laundry room at the residential complex. The incident was captured on video.

8. The Landlord submitted a copy of the video capturing the incident. The video shows the Tenant pushing, shoving and punching another person at the residential complex multiple times in the head. At one point the victim turns around to walk away and was punched in the back of the head by the Tenant.
9. The Tenant committed an illegal act by assaulting another person at the residential complex on January 29, 2023. This behaviour is serious and has the potential to affect the character of the premises or disturb the reasonable enjoyment of the other tenants. Other tenants have a right to be free of violence and feel safe and secure in their homes. The Tenant's behaviour seriously interferes with this right and expectation.
10. The Tenant has seriously impaired the safety of victim of her assault by repeatedly punching that person in the head. In my view, repeated blows to the head poses a serious risk to an individual's safety. It can lead to serious injuries such as concussions, loss of consciousness or possibly death.
11. The Landlord collected a rent deposit of \$1,210.94 from the Tenant and this deposit is still being held by the Landlord.
12. 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

13. 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.
14. After the January 29, 2023 incident, the Tenant continued to engage in illegal acts that have the potential to affect the character of the residential complex. It was undisputed that the Tenant sent AA a threatening text message stating her friends are coming for AA and his family and that she was able to obtain his personal address. On or about May 25, 2023, the Tenant vandalized the door of another tenant. Recently, AA received complaints that the Tenant had stolen another tenant's parcel. AA viewed pictures of the video surveillance and confirms it was the Tenant in the pictures stealing the parcel.
15. It does not appear that the Tenant is remorseful or even acknowledges the seriousness or the impact of her actions. Rather than acknowledge her behaviour, the Tenant says the Landlord has continuously harassed her and wants to evict her so that they can raise the rent. The Tenant says that the harassment she experiences has worsened her mental health issues which she says should be considered. However, the Tenant failed to prove her behaviour is due to any disability she has. No medical documentation was provided to corroborate the Tenant suffers from any mental health issues. No details were provided with respect to any restrictions the Tenant experiences and how her disability is related to her behaviour. The Tenant's ongoing behaviour is disruptive to the other tenants and the Landlord's staff of the 55-unit building. The Tenant did not present any evidence or submissions with respect to her circumstances that would justify granting relief.

16. This order contains all of the reasons for the decision within it and no further reasons will be issued.

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 July 23, 2023.
2. If the unit is not vacated on or before July 23, 2023, then starting July 24, 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 July 24, 2023. **The Sheriff is requested to expedite the enforcement of this order.**
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. The Landlord owes \$1,210.94 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.
6. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the amount the Landlord is entitled to by \$1,024.94.
7. However, the Landlord is authorized to deduct from amount owing to the Tenant \$39.79 per day for compensation for the use of the unit starting April 14, 2023 to the date the Tenant moves out of the unit.
8. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

July 18, 2023

Date Issued

Khalid Akram

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 January 24, 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.