



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

Citation: Tran v Ford, 2023 ONLTB 43600

Date: 2023-06-16

File Number: LTB-L-056989-22

In the matter of: 1611 (Tower B), 3700 HIGHWAY 7 Vaughan
ON L4L0G8

Between: Thi Tran Landlord

And

Chennielle Ford Tenant

Thi Tran (the 'Landlord') applied for an order to terminate the tenancy and evict Chennielle Ford (the 'Tenant') because:

- the Tenant has been persistently late in paying the Tenant's rent.

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 June 5, 2023.

The Landlord and the Tenant attended the hearing.

Preliminary Issue:

1. When I initially called this matter to be heard at 1:20 PM, the Tenant was not present.
2. I asked the Landlord's representative if he had had any recent communication with the Tenant.
3. The Landlord's representative informed me that he received an iMessage at 7:48 AM the morning of the hearing from a phone number he did not recognize (ending in 7204) which said: "I have not gotten any mail". He confirmed through subsequent messaging that the iMessage was from the Tenant. The Landlord's representative submitted these iMessage communications into evidence in file number LTB-L-056989-22 (DOC-1437593). He noted

that he had previously corresponded with the Tenant through a phone number ending in 6320.

4. I asked the Landlord's representative to iMessage to the phone number ending in 7204 the information on how to access the hearing and he did so at 1:29 PM.
5. At 3:00 PM, the Tenant attended the hearing stating that she received the iMessage from the Landlord's representative sent at 1:29 PM.

File Number: LTB-L-056989-22

6. The Tenant requested an adjournment on the basis that she only found out about the hearing on the morning of the hearing.
7. When I asked the Tenant why she sent an iMessage to the Landlord's representative at 7:48 AM that morning, she said that she had just received an iMessage from the Landlord's representative stating that a hearing had been scheduled for today.
8. The Landlord's representative submitted into evidence the iMessage the Tenant was referring to (page 29 of DOC-1360296). This iMessage was sent on May 12, 2023 to the phone number ending in 6320. The Tenant acknowledged that this was her phone number and that she also had the phone number ending in 7204. The Tenant provided no explanation as to why an iMessage sent on May 12, 2023 would not arrive until June 5, 2023.
9. The Tenant denied receiving any paperwork from the Board. The notice of hearing for this matter was mailed to the Tenant on May 12, 2023 and was not returned to the Board as undelivered. In addition, a notice of hearing for file number LTB-L-026658-22, which was also scheduled to be heard at the same time, was also mailed to the Tenant on May 12, 2023 and was not returned to the Board as undelivered.
10. The Tenant denied receiving any paperwork from the Landlord. The Landlord's representative stated that he served the Tenant with an L1/L9 Update Sheet on May 21, 2023 with respect to LTB-L-026658-22 and a Certificate of Service was also filed to this effect.
11. The Tenant did not identify having any difficulties receiving mail and provided no explanation as to why she did not receive the two notices of hearing from the Board and the L1/L9 Update Sheet from the Landlord.
12. I do not find the Tenant's allegation that she just found out about the hearing the morning of the hearing to be credible. It is wholly unbelievable that a text message sent on May 12, 2023 would not arrive until June 5, 2023. It is also highly improbable that three separate pieces of mail correspondence would not be delivered and that none of these would be returned to the senders as undelivered.

13. As a result, I denied the Tenant's request for an adjournment because I find she had adequate notice of the hearing.

Determinations:

14. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated and the Tenant must move out of the rental unit on or before June 27, 2023.
15. On October 1, 2022, the Landlord gave the Tenant an N8 notice of termination deemed served on October 1, 2022. The notice of termination alleges that the Tenant has not paid rent since October 2021. The Landlord's representative stated that the Tenant has not paid any rent since the application was filed.
16. The Tenant stated that she made a rent payment in December 2022. The Landlord's representative denied this payment. Even if this payment were made, I still find the Tenant

File Number: LTB-L-056989-22

has persistently paid the rent late because she has not made a payment since December 2022.

17. The Landlord's claim for compensation for use and occupation of the rental unit for the period from December 7, 2022 to June 5, 2023 is moot as file number LTB-L-026658-22 covers the amount owing for this period.
18. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
19. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Residential Tenancies Act, 2006 (the 'Act'), including the impact of COVID-19 on the parties and the Tenant's health concerns and recent hospitalization, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

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 June 27, 2023.
2. If the unit is not vacated on or before June 27, 2023, then starting June 28, 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 June 28, 2023.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.

June 16, 2023

Date Issued

Richard Ferriss

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 December 28, 2023 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.

2023 ONL/TB 43600 (CanLII)