



Order under Section 78(6) Residential Tenancies Act, 2006

Citation: Ly v Chadwick, 2023 ONLTB 36504

Date: 2023-05-05

File Number: LTB-L-021437-23

In the matter of: 821, 146 SUMACH ST
TORONTO ON M5A0P7

Between: Nhan Thuan (Elton) Ly Landlord

And

Paul Chadwick Tenant

On March 10, 2023, Nhan Thuan (Elton) Ly (the 'Landlord') applied for an order to terminate the tenancy and evict Paul Chadwick (the 'Tenant') because the Tenant did not meet conditions specified in the order issued by the Board on February 16, 2023 with respect to application LTBL-018062-22.

This application was decided without a hearing being held.

Determinations:

1. The previous order provides that the Landlord can apply to the LTB under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') without notice to the Tenant to terminate the tenancy and evict the Tenant if the Tenant does not meet a certain condition in the order. This application was filed within 30 days of the breach.
2. I find that the Tenant has not met the following conditions specified in the order: **Starting February 23, 2023, the Tenant shall not smoke in the rental unit, including the balcony, or in the residential complex.**
3. The Landlord's declaration in support of the application notes the following:
 - On February 23, 2023, at approximately 1:30 pm, the Landlord's staff observed a strong cigarette smell coming from the Tenant's unit. Upon the Landlord's entry into the rental unit (with the Tenant's permission), an astray containing cigarette butts was observed on the Tenant's bed. The Tenant confirmed he had been smoking on the balcony;

- On February 26, 2023, at approximately 4:30 pm, the Landlord attended the Tenant's rental unit following complaints of a strong cigarette smoke smell on the

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Tenant's floor. The Landlord entered the rental unit with the Tenant's permission and the rental unit smelled of cigarette smoke. The Tenant confirmed smoking inside the rental unit and on the balcony;

- On February 27, 2023, at approximately 3:08 pm, following a complaint of a strong cigarette smoke smell on the Tenant's floor, the Landlord attended the rental unit. Upon entry with the Tenant's permission, there was a strong cigarette smoke smell within the rental unit. The Tenant confirmed smoking inside the rental unit; and
- On March 1, 2023, at approximately 10:08 am, the Landlord was walking on the Tenant's floor and noticed a strong smell of cigarette smoke coming from the Tenant's rental unit.

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 May 16, 2023.
2. If the unit is not vacated on or before May 16, 2023, then starting May 17, 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 May 17, 2023.

May 5, 2023

Date Issued

Kimberly Parish

Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor, Toronto
ON M7A 2G6

The Tenant has until May 15, 2023 to file a motion with the LTB to set aside the order under s. 78(9) of the Act. If the tenant files the motion by May 15, 2023 the order will be stayed and the LTB will schedule a hearing.

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 expires on November 17, 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.

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