



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

Citation: 650 Parliament Residences v Lloyd Smith, 2023 ONLTB 33637

Date: 2023-05-03

File Number: LTB-L-027435-22

In the matter of: 1406, 650 PARLIAMENT ST
TORONTO ON M4X1R3

Between: 650 Parliament Residences Landlord

And

Lloyd Smith Tenant

650 Parliament Residences (the 'Landlord') applied for an order to terminate the tenancy and evict Lloyd Smith (the 'Tenant') because:

- The Tenant substantially interfered with other tenants and the Landlord's reasonable enjoyment by repeatedly failing to prepare the rental unit for pest control treatment.

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 April 20, 2023 at 09:00 am.

Only the Landlord Representative Charlie Bobrowsky attended the hearing.

As of 09:30 am, 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 the claim for compensation in the application. Therefore the tenancy is terminated.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Landlord served the Tenants with an N5 notice to Terminate the Tenancy (N5 Notice) on March 25, 2022 deemed served the same date. The termination date on the notice was April 30, 2022.
4. The N5 Notice alleges that despite having been given prior notice to each visit the Tenant failed to have the rental unit prepared for pest control treatments on the following dates:

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- a. December 16, 2021;
 - b. February 10, 2022;
 - c. February 24, 2022;
 - d. March 03, 2022; and
 - e. March 18, 2022.
5. The Landlord attended the rental unit again on April 01 and May 11, 2022 and determined that the Tenant failed to prepare the rental unit for pest control treatment within seven days after receiving the N5 notice of termination. Therefore, Landlord served the Tenant with a second N5 Notice with a termination date of May 31, 2022, subsequent to which they filed their application on May 16, 2022.
 6. Based on the uncontested evidence presented, I am satisfied on the balance of probabilities that the Tenants did not void the N5 notice of termination in accordance with section 62(3) of the Residential Tenancies Act, 2006 (Act) and the Landlord has proven the grounds to terminate the tenancy.
 7. The Tenant was required to pay the Landlord \$10,467.24 in daily compensation for use and occupation of the rental unit for the period from June 1, 2022 to April 20, 2023.
 8. Based on the Monthly rent, the daily compensation is \$32.31. This amount is calculated as follows: $\$982.65 \times 12$, divided by 365 days.
 9. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
 10. The Landlord collected a rent deposit of \$1,023.91 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$0.00 is owing to the Tenant for the period from January 1, 2021.
 11. 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.
 12. 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.
 13. Specifically, given the Tenant failed to appear, despite having been properly notified, I am satisfied that Landlord would be prejudiced should relief be granted.

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 30, 2023.

2. If the unit is not vacated on or before May 30, 2023, then starting May 31, 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 31, 2023.
4. The Tenant shall pay to the Landlord \$9,443.33, which represents compensation for the use of the unit from June 1, 2022 to April 20, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$32.31 per day for the use of the unit starting April 21, 2023 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The total amount the Tenant owes the Landlord is \$9,629.33
8. If the Tenant does not pay the Landlord the full amount owing on or before May 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 31, 2023 at 6.00% annually on the balance outstanding.

May 19, 2023
Date Issued

Kelly Delaney
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 November 15, 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.

