



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

Citation: Everett v Wood, 2023 ONLTB 34601

Date: 2023-05-02

File Number: LTB-L-015984-23

In the matter of: Rear Upper, 18 MARY ST Fort
Erie ON L2A4A1

Between: Douglas Everett Landlord

And

Dakota Wood Tenant

Douglas Everett (the 'Landlord') applied for an order to terminate the tenancy and evict Dakota Wood (the 'Tenant') 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 Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises.

Douglas Everett (the 'Landlord') also applied for an order requiring Dakota Wood (the 'Tenant') to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was heard by videoconference on April 24, 2023.

Only the Landlord Douglas Everett attended the hearing.

As of 1:30 p.m., 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. Since the Tenant did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated effective May 7, 2023.
2. At the hearing, the Landlord advised the Board he was no longer pursuing an order for damages. As a result, this claim on the L2 application was not considered.
3. The Tenant was in possession of the rental unit on the date the application was filed.
4. On January 9, 2023, the Landlord served the Tenant an N7 notice of termination. The termination date on the notice was January 31, 2023. The N7 notice of termination contains the following allegations:
 - a) On January 9, 2023, beginning at 8:00 a.m. and lasting until 8:00 p.m., there was a police presence at the residential complex for the arrest of the Tenant. The Tenant refused to go peacefully, and a high tactical unit was deployed to remove the Tenant forcefully.
 - b) On November 22, 2022, there was a police presence for the arrest of the Tenant that lasted approximately 12 hours due to the Tenant's refusal to go peacefully. A high tactical unit was deployed to remove the Tenant forcefully.
 - c) On November 5, 2022 the smoke detector was replaced for the third time in a year after being smashed off the ceiling each time.
5. The Landlord testified he had no evidence to present in relation to the willful damage claim related to the smoke detector. As a result, this allegation was not considered.
6. The Landlord's evidence was that on two separate occasions, the police attended the residential complex to arrest the Tenant. On both occasions, the events unfolded in an almost identical manner. One of these dates was January 9, 2023 while the other was November 22, 2022.
7. The Landlord testified that on January 9, 2023 the police attended the residential complex at approximately 8:00 a.m. to arrest the Tenant. The Landlord was called to the scene to provide the police with a key to the rental unit as the Tenant would not surrender himself peacefully. The Landlord's evidence was the Tenant would not leave the rental unit and the situation escalated.
8. The Landlord testified that a tactical unit was deployed to the residential complex and told the neighbours and other tenants to stay in their homes. The Landlord's evidence was 17 police officers were on scene. There was police equipment on the neighbouring lawns and spot-lights were used.

9. The Landlord's evidence was the incident ended at approximately 8:00 p.m. with the arrest of the Tenant, 12 hours after the ordeal began.
10. The Landlord testified that on November 5, 2022, the police attended the residential complex to arrest the Tenant. The N7 notice alleges this incident occurred on November 22, 2022. I was satisfied the Landlord misstated the date of this incident after reading the N7 notice and addressing the issue with the smoke detector.
11. The Landlord's evidence was he was called to scene to provide the police with a key to the rental unit as the Tenant would not leave the rental unit to be arrested peacefully. A tactical unit attended the residential complex. The Landlord testified this incident began at approximately 6:00 p.m. and ended at 5:30 a.m. when the Tenant was arrested. The Landlord testified that over the course of the incident the number of officers present ranged between three and eight.
12. Section 66(1) of the Residential Tenancies Act, 2006 (the Act) reads as follows:

A landlord may give a tenant notice of termination of the tenancy if,

- (a) an act or omission of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant seriously impairs or has seriously impaired the safety of any person; and
- (b) the act or omission occurs in the residential complex.

13. Based on the uncontested evidence of the Landlord, I find on a balance of probabilities the Tenant, on January 9, 2023, seriously impaired the safety of another person and that he did so in the residential complex. The Tenant refused to be arrested peacefully and his actions lead to the deployment of 17 police officers to the residential complex. This included a tactical unit. People were told to stay in their homes. I can infer this was due to safety concerns.
14. The Tenant created a volatile situation that risked harm to himself and the police officers that were present. I do not find it is unreasonable to conclude that when a tactical police unit attends a scene, weapons may have to be used. I am satisfied on the evidence of the Landlord the Tenant's behaviour put himself and others in potential peril and did so for an extended period of time.

Section 83 Considerations

15. At the hearing, the Landlord sought eviction of the Tenant. Since the N7 notice was served the Landlord's evidence was that when the Tenant is present at the rental unit, he is disruptive and threatening to other tenants. The Landlord believed the Tenant has spent some time in jail since being served the N7 notice but as recently as April 19, 2023, there had been additional police activity at the rental unit.

16. The Landlord testified that over the course of the tenancy he has attempted to “help him out” in an effort to guide the Tenant away from poor behaviour. The Landlord’s evidence was he had not succeeded.
17. 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. I asked the Landlord if he was aware of any circumstance the Tenant may be experiencing that would make eviction unfair and he was aware of none. The Tenant did not attend the hearing to provide submissions or evidence in support of delaying or denying eviction.

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 7, 2023.
2. If the unit is not vacated on or before May 7, 2023, then starting May 8, 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 8, 2023. The Sherriff 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. If the Tenant does not pay the Landlord the full amount owing by May 7, 2023 they will start to owe interest. This will be simple interest calculated annually at 6.00% from May 8, 2023 on the balance outstanding.

May 2, 2023

Date Issued

John Cashmore
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 8, 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.

