



Order under Section 94.7 Residential Tenancies Act, 2006

Citation: Sidney Towers Housing Co-operative Inc v Calderone, 2023 ONLTB 33433

Date: 2023-04-26

File Number: LTB-C-077145-22

In the matter of: 2, 94 Adeline Street Ottawa
Ontario K1S3L6

Between: Sidney Towers Housing Co-operative Inc Co-op

and

Paul Calderone Co-op Member

Sidney Towers Housing Co-operative Inc (the 'Co-op') applied to the Landlord and Tenant Board ("LTB") pursuant to section 94.7(1) of Part V.I of the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17, as amended (the RTA), for an order to end the occupancy of the member unit and evict the Co-op Member because the conduct of the Member substantially interferes with the reasonable enjoyment for usual purposes by the Co-op or another member of the Co-op or occupant of the residential complex, or substantially interferes with another lawful right, privilege or interest of the Co-op or another member.

This application was heard by videoconference on April 19, 2023.

Only A. Houde, Treasurer of the Co-op, D. Lafrance, President of the Co-op, and the Co-op's representative, T. Jacquard, attended the hearing.

As of 10:10 am, the Co-op Member 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 Co-op's evidence.

Determinations:

1. The Co-op served the Member with an N5C notice to end the Co-op Member's occupancy of the unit on two bases: first, that the Co-op Member had changed the lock to the unit and had not provided the Co-op with a copy of the key; and second, that hydro was not being

supplied to the unit and the Tenant had failed to make arrangements with Hydro Ottawa to bring the account for the unit into good standing to ensure supply of power to the unit.

2. I find as follows, based on the uncontroverted testimony of AH, Treasurer for the Co-op, that the Co-op Member has substantially interfered with the reasonable enjoyment for usual purposes by the Co-op or other members of the Co-op or occupant, or substantially interfered with another lawful right, privilege or interest of the Co-op or another member:
 - a) In June 2022, when AH was delivering rent receipt documents to units neighbouring the Co-op Member's unit, AH noticed extension cords running from the Co-op Member's unit to a public service electrical outlet in the garage of the residential complex;
 - b) AH contacted Ottawa Hydro in an attempt to ascertain the status of the electricity account for the unit but was refused that information because the account was in the name of the Co-op Member;
 - c) The Co-op's electrician investigated the hydro box for the unit, located outside the building, and advised the Co-op that the triangle in the lower corner of the face of the box was lit, indicating that there was no supply of electricity to the box;
 - d) At the behest of the Co-op, another member ('WH') who operated as a sort of liaison between the Co-op and Co-op members, communicated with the Co-op Member about removing the extension cords and ceasing to tap into the garage outlet for electricity. The Co-op Member co-operated for a few days but then resumed drawing power from the garage outlet. The Co-op and various members of the Co-op were very concerned about the extensions posing a fire hazard;
 - e) As of December 2022 power was apparently being supplied to the unit without use of the extension cords, but the Co-op understood this power supply was attributable to a municipal law mandating the supply of power to households during the winter months. The Tenant provided the Co-op with no assurance or confirmation that he had himself brought the account into good standing and did not respond to the concerns raised in the N5C notice;
 - f) With respect to the key, the Co-op attempted to inspect the unit in October 2022, further to a proper notice of entry. The Co-op found that the lock to the unit had been changed and that none of the keys held by the Co-op working in the lock.
 - g) The Co-op Member has not provided the Co-op with a copy of the key despite having been expressly requested to do so by the other member, WH, and despite the service of the N5C notice; and
 - h) I find that the Co-op Member failed to void the N5C notice both by failing to supply a copy of the key to the new lock and by failing to provide confirmation of reinstatement of his account with Ottawa Hydro..
3. The Co-op's representative indicated that the Co-op was unable to confirm the current status of the Co-op Member's account with Ottawa Hydro without the co-operation of the Tenant. He suggested that the Board issue an order to compel the Co-op Member to provide that assurance, in the event that the account is in fact in good standing now, and so give the Co-op Member one last opportunity to preserve his right of occupation.

Similarly he indicated that the Co-op would be amenable to an order allowing the Co-op Member to continue his occupancy on the condition that he supply the Co-op with a copy of the key to the unit.

4. I note that the ongoing supply of electricity to the unit, outside of just the winter months covered by the municipal law, is important to the safety and maintenance of the unit, the residential complex and other members of the Co-op. I also acknowledge the importance of the Co-op's ability to access the unit in accordance with the RTA. Accordingly, I find that if the Co-op Member does not supply both a copy of the key and assurance of ongoing supply of power to the unit the Co-op's right of occupancy should properly be terminated.
5. I consider the Co-op's suggestion of a conditional order to be reasonable in the circumstances.
6. I have considered all of the disclosed circumstances in accordance with subsection 94.12(2) of the Residential Tenancies Act, 2006 (the 'Act'), and find that it would not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 94.12(1)(a) and 204(1) of the Act.

It is ordered that:

1. The Co-op Member shall, on or before May 20, 2023, provide the Co-op, by notice to the Co-op office:
 - a) A copy of a working key to the lock to the unit to allow the Co-op to access the unit; and
 - b) Documentation to confirm that the Hydro account for the unit is operative and in good standing as of May 20, 2023.
2. Section 94.11 of the *Residential Tenancies Act, 2006* applies to this order. If the Co-op Member fails to meet either of the conditions set out in paragraph 1 of this order the Co-op may, without notice to the Co-op Member, apply to the Board for an order terminating the occupancy of the Co-op Member's unit and evicting the Co-op Member.

April 26, 2023

Date Issued

Lynn Mitchell

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.

**Schedule 1
SUMMARY OF CALCULATIONS**

A. Amount the Co-op Member must pay to void the eviction order and continue the occupancy if the payment is made on or before

Regular Monthly Housing Charges Owing To	\$0.00
Other Housing Charges	\$0.00
Application Filing Fee	\$201.00
NSF Charges	\$0.00
Less the amount the Co-op Member paid into the Co-op since the application was filed	- \$0.00
Less the amount the Co-op Member paid into the LTB since the application was filed	- \$0.00
Less the amount of the credit that the Co-op Member is entitled to	- \$0.00
Total the Co-op Member must pay to continue the occupancy	\$201.00

B.

C. Amount the Co-op Member must pay if the occupancy is terminated

Regular Monthly Housing Charges Owing To Hearing Date	\$0.00
Other Housing Charges	\$0.00
Application Filing Fee	\$201.00
NSF Charges	\$0.00
Less the amount the Co-op Member paid into the Co-op since the application was filed	- \$0.00
Less the amount the Co-op Member paid into the LTB since the application was filed	- \$0.00
Less the amount of refundable deposits	- \$0.00
Less the amount of the credit that the Co-op Member is entitled to	- \$0.00
Total amount owing to the Co-op	\$201.00
Plus daily compensation owing for each day of occupation starting	\$0.00 (per day)

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