



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

Citation: Good Shepherd Non-Profit Homes v Mladenovic, 2023 ONLTB 32875

Date: 2023-04-24

File Number: LTB-L-017191-22

In the matter of: 208, 147 Mary Street Hamilton
ON L8R1K4

Between: Good Shepherd Non-Profit Homes

Landlord

And

Adrian Mladenovic

Tenant

Good Shepherd Non-Profit Homes (the 'Landlord') applied for an order to terminate the tenancy and evict Adrian Mladenovic (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

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 February 7, 2023.

The Landlord attended the hearing. The Landlord was represented by Jillian Bennett ('J.B.' or the 'Property Manager'), who called Melissa Jackson ('M.J.') as a witness.

As of 11:36 a.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. As a result, the hearing proceeded with only the Landlord's evidence.

PRELIMINARY MATTERS

1. The application was amended to include the correct address of the rental unit as written on the N5 Notice.

Determinations:

2. The rental unit is located in an apartment building. The Landlord alleges that the Tenant allows guests into the residential complex whose behavior disturbs other tenants and staff employed by the Landlord who work in the residential complex.
3. The Tenant continues to reside in the rental unit.
4. For reasons that follow, the application is granted.

THE L2 APPLICATION

5. The L2 application is based on one N5 notice of termination. For reasons that follow, the N5 portion of the application is granted.

The N5 Notice – substantial interference

6. The Landlord served an N5 notice of termination under section 64 of the *Residential Tenancies Act, 2006* (the 'Act') for substantial interference on March 17, 2022 with a termination date of April 8, 2022. This N5 indicated that the Tenant had 7 days to stop the activities or correct the behavior described in the notice. I am satisfied that the actions alleged in the N5 Notice could, if proven, constitute substantial interference.
7. Section 64 of the Act provides that a notice of termination under these provisions must: (i) provide a notice of termination not earlier than the 20th day after the notice is given; (ii) set out the grounds for termination; and, (iii) require the tenant within seven days, to stop the conduct or activity or correct the omission set out in the notice. In the event a tenant voids the first N5 notice, subsections 68(1) and (2) permits a landlord to deliver to a tenant a second N5 notice with a termination date that shall not be earlier than the 14th day after the notice was given.
8. I am satisfied that the N5 Notice issued to the Tenant was procedurally valid and complied with section 64 of the Act.

Substantial interference

9. For the reasons that follow I am satisfied on a balance of probabilities that the Tenant substantially interfered with the reasonable enjoyment of other tenants in the complex as well as the Landlord.

10. The N5 Notice essentially alleges that on March 4, 2022 an incident occurred on the second floor of the residential complex that required the local police to attend to the unit, conduct an investigation, detain and remove one of the Tenant's guests, and that this incident substantially interfered with the reasonable enjoyment of the residential complex by other tenants and their guests.

Evidence of J.B.

11. J.B. testified that she is an employee and property manager of the Landlord.
12. On March 4, 2022, an incident occurred at the residential complex which involved another tenant being held up by another person using a gun. The police were contacted who attended the unit and, upon review of the surveillance camera recordings, it was determined that the suspect was a guest of the Tenant. This resulted in the residential complex being placed under lock down as the police conducted their investigation which included questioning the Tenant and his guests, detaining, and later, removing the suspect from the Tenant's unit. Submitted into evidence by the Landlord were photographic images extracted from the surveillance video dated March 4, 2022 from 7:49 p.m. through to 8:16 p.m. depicting the police and guests of the Tenant in the hallway outside of the rental unit, and later, being escorted through the front entranceway of the residential complex.
13. J.B. explained that the incident on March 4, 2022 endured for approximately three hours during which time it substantially interfered with the reasonable enjoyment of the residential complex by other tenants and their guests who were not permitted to leave their units due to police investigation. The nature of the incident also left other tenants, as well as the Landlord's staff who work onsite, feeling unsafe during this particular incident.

Analysis

14. Based on the uncontested evidence, I am satisfied that the Landlord had proven the grounds for eviction pursuant to section 64 of the Act.
15. The Tenant substantially interfered with the reasonable enjoyment of the residential complex by other tenants and the Landlord by allowing guests into the residential complex who attempted to rob another tenant at gun point on March 4, 2022, which necessitated the Landlord to involve the police who attended the residential complex, and locked down the apartment building so that staff and other tenants could not use the residential complex.

Relief from eviction

Evidence of J.B.

16. It was the Landlord's evidence that since the N5 Notice was issued, the Tenant and his guests had continued to engage in behavior that substantially interfered with the reasonable enjoyment of the residential complex by other tenants and the Landlord, such that a delay or

denial of eviction would be prejudicial to the Landlord who is required to provide safe supportive housing for its residents.

17. J.B. testified to a second incident that occurred on March 24, 2022 (within the N5 Notice voiding period) that involved another guest of the Tenant. The guest was identified on surveillance video breaking into, damaging, and removing money from the laundry machines located in the laundry room of the residential complex. Submitted into evidence were photographs taken from surveillance footage dated March 24, 2022 from 7:57 a.m. to 8:26 a.m. of an individual leaving the Tenant's unit, using tools to manually drill open the part of the coin-operated laundry machine that holds money, placing items into a handbag and leaving the premises.
18. J.B. also testified to multiple incidents of the Tenant and his guests verbally abusing site staff (and, in particular, the security guards who controlled entry of patrons into the building), as well as guests allowing the entry to other visitors (some of whom were intoxicated) into the building in contravention of the apartment building rules. Submitted into evidence were Incident Reports dated March 26, 2022, March 29, 2022, and March 30, 2022, detailing the records of these incidents as documented by the onsite security guards.
19. As the Landlord did not call the authors of these documents as witnesses, they are considered hearsay to which, under usual circumstances, I would not attach any weight to their content as I am unable to affirm their content. However, I will accept the Incident Reports which, although hearsay evidence, are business records made in the usual and ordinary course of the Landlord's business which supports the occurrence of the Tenant's and his guests, and their alleged behaviour at the times and dates they occurred.

Evidence of M.J.

20. M.J. testified that she works at the residential complex up to four days per week as Project Manager who oversees a team of community mental health workers assigned to the residential complex.
21. M.J. testified that, through her onsite work, regular review of the incident reports and consultations with the site staff, she is directly aware that the guests of the Tenant had, and continue to engage in behavior that contravenes rules of the residential complex, which includes being verbally abusive and threatening towards staff and security guards. She also explained that this behaviour continued up to the weekend prior to this hearing when the Landlord learned of illicit drug use taking place in the rental unit after a guest overdosed.
22. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the Act, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act. I am satisfied that, given the pattern of behavior of the Tenant's guests, it is clear that the tenancy relationship has deteriorated resulting in a significant, adverse impact on other tenants and the Landlord's staff, such that the tenancy is no longer viable.

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 5, 2023.
2. If the unit is not vacated on or before May 5, 2023, then starting May 6, 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 6, 2023.
4. The Tenant shall pay to the Landlord \$7,861.48, which represents compensation for the use of the unit from April 9, 2022 to February 7, 2023, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$25.78 per day for the use of the unit starting February 8, 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. If the Tenant does not pay the Landlord the full amount owing on or before May 5, 2023, the Tenant will start to owe interest. This will be simple interest calculated from May 6, 2023 at 6.00% annually on the balance outstanding.

April 24, 2023

Date Issued

Emile Ramlochan

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 6, 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.

