



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

Citation: 2411574 ONTARIO INC v Mccorkell, 2023 ONLTB 31557

Date: 2023-04-19

File Number: LTB-L-020326-22

In the matter of: 103, 1917 ST. LAURENT BLVD
OTTAWA ON K1G3S6

Between: 2411574 ONTARIO INC Landlord

And

Edward Mccorkell Tenant

2411574 ONTARIO INC (the 'Landlord') applied for an order to terminate the tenancy and evict Edward Mccorkell (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 22, 2023.

Only the Landlord's representative Greg Foss and the Landlord's witness Dianne Bussault attended the hearing.

As of 10 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.

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 between the Landlord and the Tenant is terminated.

2. The Tenant was in possession of the rental unit on the date the application was filed.

N5 Notice of Termination Substantial interference

3. On March 6, 2022, the Landlord gave the Tenant an N5 notice of termination deemed served on March 7, 2023. The notice of termination contains the following allegations:
4. On March 14, 2022 a foul odour persisted from the Tenant's unit. The Landlord's staff and Tenants of the building have complained about the odour being very strong and the Landlord asked the Tenant to resolve the issue and eliminate the odor.
5. DS, the Property Manager testified that the odour that appears to be a cat urine odour still persists since the notice had been served on the Tenant.
6. DS testified that the staff of the rental unit attempted to provide assistance in eliminating the odour by trying to work with the Tenant in cleaning the unit and shampooing carpets.
7. DS testified that over the course of the summer following the notice being served the Landlord inspected the rental unit 8-10 times and found the Tenant to be housing about 10 cats. There was only one litter box available to the numerous cats, and that litter box was not maintained.
8. DS testified that the Tenant resides on the first floor and Tenants have complained of the foul odour because they must access the first floor in order to take the elevator to their units.
9. DS testified that over the past two summers, 50 prospective tenants who viewed rental units in the complex mentioned the foul odour from the first floor and did not rent the available units. DS believes that the foul odour was the reason for not being able to rent the units. Although prospective Tenants were not at the hearing to testify, it is not far fetched that a strong smell of cat urine would deter potential tenants from renting units in the complex.
10. DS testified that she contacted the Tenant about the hearing and the Tenant was refusing to attend the hearing to address the issues regarding the cats.
11. The Tenant did not stop the conduct within seven days after receiving the N5 notice of termination. DS demonstrated through her testimony that the Tenant continued to be negligent in maintaining the cleanliness of the multiple cats housed in the rental unit.
12. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).

Daily compensation, NSF charges, rent deposit

13. The Tenant was required to pay the Landlord \$10,779.61 in daily compensation for use and occupation of the rental unit for the period from April 7, 2022 to February 22, 2023.
14. Based on the Monthly rent, the daily compensation is \$33.48. This amount is calculated as follows: \$1,018.26 x 12, divided by 365 days.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
16. There is no last month's rent deposit.
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. The Tenant's conduct has continued since the N5 was served to the date of the hearing. The Tenant's failure to comply with s.33 of the Act by maintaining a clean unit and housing allowing foul cat urine odour to permeate the rental unit substantially interferes with the Landlord's ability to rent other units in the complex and substantially interferes with the use of the residential complex by existing tenants and the Landlord.

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 31, 2023.
2. If the unit is not vacated on or before May 31, 2023, then starting June 1, 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 June 1, 2023.
4. The Tenant shall pay to the Landlord \$10,779.61, which represents compensation for the use of the unit from April 7, 2022 to February 22, 2023, less any rent the Tenant has paid during this period, the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$33.48 per day for the use of the unit starting February 23, 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 31, 2023, the Tenant will start to owe interest. This will be simple interest calculated from June 1, 2023 at 6.00% annually on the balance outstanding.

May 3, 2023

Date Issued

Maria Shaw

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 1, 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.