



Order under Section 69  
Residential Tenancies Act, 2006

Citation: Wigwamen Incorporated v McLeod, 2023 ONLTB 31095  
Date: 2023-04-06 File Number: LTB-L-076838-22 (TEL-21167-21)

In the matter of: 108, 20 SEWELLS ROAD  
TORONTO ON M1B3G5

Between:	Wigwamen Incorporated	Landlord
	And	
	Jason McLeod	Tenant

2023 ONLTB 31095 (CanLII)

Your file has been moved to the Landlord and Tenant Board’s new case management system, the Tribunals Ontario Portal. Your new file number is LTB-L-076838-22.

Wigwamen Incorporated (the 'Landlord') applied for an order to terminate the tenancy and evict Jason McLeod (the 'Tenant') because:

- the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex;
- 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 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 8, 2022 .

The Landlord and the Tenant attended the hearing.

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.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. N6 Notice of Termination

On November 30, 2021, the Landlord gave the Tenant an N6 notice of termination containing the following allegations:

#### Illegal Act

The Tenant has committed an illegal act in the rental unit or residential complex by assaulting an employee of the building's property manager and stealing his phone.

4. The Landlord's evidence included testimony by the victim employee M.H., as well as video and photograph evidence which supported the testimony of M.H., that the Tenant physically assaulted him in the parking garage and stole his phone on November 9, 2021 at 10:32am.
5. The alleged assault and theft of the M.H.'s phone was preceded by an altercation between the Tenant and the M.H. on the residential premises. The Landlord produced email evidence dated November 24, 2021 from M.H. documenting an incident on the same day at 10:05am whereby the Tenant appeared agitated and upset at the property manager's office, demanding to see M.H.'s auto insurance because the Tenant claimed that he struck M.H.'s vehicle in the residential complex parking lot.
6. It was M.H.'s evidence that he was scared of Tenant due to his size and this fear was more pronounced due to the Tenant's agitated emotional state in the building lobby.
7. M.H. testified that at approximately 10:30 am on November 9, 2021 he went to inspect his vehicle and was confronted by the Tenant, who assaulted him by choking him and then stole his phone.
8. The police and paramedics were called. M.H. was transported to hospital where he was subsequently released in satisfactory condition with minor pain in his throat.
9. The Landlord's evidence was further supported by the testimony of a police officer Detective Kevin Timms who took a police report and charged the Tenant with 2 counts of theft and 1 count of assault, choking.
10. The testimony from Detective Kevin Timms corroborated the testimony of Mr. Hoosein and the photographs, emails and video evidence produced by the Landlord.
11. The Tenant oral testimony as well as his reference to the Landlord's video and still photography was not believable that there was no assault or theft. The Tenant could not provide a reasonable and logical explanation for what was clearly evident in the building security video as an assault and theft of the property manager.
12. The Tenant is a much larger and younger man and the evidence before the Board clearly points to the fact that the Tenant clearly frightened, intimidated assaulted and stole the cell phone of the much older and smaller and slight property manager.

13. Based on the evidence before me I am satisfied on a balance of probabilities that the Tenant did in fact choke the M.H. and in doing so committed the illegal act of assault. I further find that the Tenant took M.H.'s phone without any right to do so and in doing so committed the illegal act of theft. I find that both of these acts took place in the residential complex.

Notice of Termination N7

14. On November 30, 2021, the Landlord gave the Tenant an N7 notice of termination. The notice of termination contained the same allegations made in the N6.
15. For the same reasons stated above, I find that by assaulting M.H. the Tenant seriously impaired M.H.'s safety, and that this occurred in the residential complex.
16. The Tenant testified that he and his actions on November 9, 2021 did not cause any impairment of safety to the building's employee and property manager but there was no evidence presented to the Board by the Tenant that provided a reasonable explanation for what clearly appears to have been an assault and a theft on the grounds of the residential property.
17. The date this order requires the Tenant to move out is before the termination date set out in the notice of termination given by the Landlord.
18. Based on the Monthly rent, the daily compensation is \$44.88. This amount is calculated as follows: \$1,365.00 x 12, divided by 365 days.
19. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
20. There is no last month's rent deposit.
21. 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.
22. The Tenant appears employable and capable of finding a new residential place to rent.

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 April 17, 2023.
2. If the unit is not vacated on or before April 17, 2023, then starting April 18, 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 April 17, 2023. The Sheriff is requested to expedite the enforcement of this order.
4. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. The total amount the Tenant owes the Landlord is \$186.00.

6. If the Tenant does not pay the Landlord the full amount owing on or before April 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 17, 2023 at 6.00% annually on the balance outstanding.

April 6, 2023

Date Issued

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John Tzanis

, 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 October 10, 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.