



**Order under Section 69 and 89
Residential Tenancies Act, 2006**

Citation: Skyline Living v King, 2023 ONLTB 28154

Date: 2023-03-29

File Number: LTB-L-024425-22

In the matter of: 408, 3400 ERSKINE ST WINDSOR
ON N8Y4T5

Between: Skyline Living Landlord

And

Melody King Tenant

Skyline Living (the 'Landlord') applied for an order to terminate the tenancy and evict Melody King (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 Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully or negligently caused damage to the premises.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

Skyline Living (the 'Landlord') also applied for an order requiring Melody King (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 March 20, 2023.

Only the Landlord Maria Ceglie and the Landlord's witness Mary North attended the hearing.

As of 9:34 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. 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. The Tenant was in possession of the rental unit on the date the application was filed.

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2. The Tenant vacated the rental unit on December 6, 2022 and as a result the Landlord no longer sought eviction. The hearing proceeded considering only an order for the reasonable costs necessary to repair damaged property.
3. Section 89 of the *Residential Tenancies Act, 2006* (the Act), reads as follows:

A landlord may apply to the Board for an order requiring a tenant or former tenant to pay reasonable costs that the landlord has incurred or will incur for the repair of or, where repairing is not reasonable, the replacement of damaged property if,

(a) while the tenant or former tenant is or was in possession of the rental unit, the tenant or former tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant or former tenant wilfully or negligently causes or caused undue damage to the rental unit or the residential complex; and

(b) in the case of a tenant or former tenant no longer in possession of the rental unit, the tenant or former tenant ceased to be in possession on or after the day subsection 21 (1) of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force.

4. The Landlord's evidence was during the tenancy, the Tenant began urinating on her sofa. The incidents of this increased and urine eventually saturated the Tenant's floor. The amounts were significant enough that urine soaked through the Tenant's floor and dripped down into the rental unit below the Tenant. The Landlord submitted photographs of the damage caused by the urine. Invoices for the repairs done to the Tenant's floor and the ceiling in the unit below were submitted totalling \$565.00.
5. The Landlord recognized the Tenant was experiencing issues that required a duty to accommodate. Their evidence was that in the early stages of the problem, the discussed it with the Tenant, who was open to find a solution. The parties agreed to wrap the Tenant's sofa in plastic as well as lay a plastic sheet on the floor under the sofa.
6. The Landlord's evidence was the plastic they installed was eventually removed and the problem with urine seeping into the floor continued. The Landlord continued to try to find a solution with the Tenant by offering supports and attempting to discuss other options. The

Tenant became “standoffish” and refused any other assistance or help from the Landlord. The Tenant also denied access to the rental unit causing the Landlord to abandon their investigation of installing a barrier into the Tenant’s floor. Accommodation is a joint venture and when one side refuses to take part in finding a solution, it is not on the remaining party to find a hypothetical accommodation that resolves the issue.

7. Based on the uncontested evidence of the Landlord, I am satisfied on balance of probabilities the Landlord recognized a need to accommodate the Tenant. I am also satisfied the Landlord made reasonable attempts to accommodate the Tenant’s circumstances while she was cooperative. I am also satisfied the Tenant stopped taking part in the process to find a solution and damage to the floor and ceiling below occurred.
8. Based on the uncontested evidence, the Landlord has proven they have incurred costs of \$565.00 to repair the damage to the floor of the rental unit and the ceiling in the unit below it. I find these amounts to be reasonable.

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It is ordered that:

1. The Tenant shall pay to the Landlord \$565.00, which represents the reasonable costs of repairing the damage to the floor of the rental unit and the ceiling in the unit below.
2. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
3. The total amount the Tenant shall pay the Landlord is \$751.00
4. If the Tenant does not pay the Landlord the amount set out in paragraph 3 by April 9, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 10, 2023 at 5.00% annually on the balance outstanding.

March 29, 2023

John Cashmore

Date Issued

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.