



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

Citation: Skyline Living v Pitamber, 2023 ONLTB 26262

Date: 2023-03-22

File Number: LTB-L-022646-22

In the matter of: 28, 310 CLYDE RD CAMBRIDGE
ON N1R1L6

Between: Skyline Living Landlord

And

Alvin Pitamber Tenants
Subadar Pitamber

Skyline Living (the 'Landlord') applied for an order to terminate the tenancy and evict Alvin Pitamber and Subadar Pitamber (the 'Tenants') because:

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

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

This application was heard by videoconference on March 9, 2023.

The Landlord's Representative, Laura Goshok and the Tenants attended the hearing. Rick Weisler and Pam Weisler were witnesses for the Landlord.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Relief from eviction is granted if the Tenants meet the conditions set out in the order.

N5 Notice of Termination

Substantial interference

On April 11, 2022, the Landlord gave the Tenants an N5 notice of termination deemed served on April 12, 2022. The notice of termination contains the following allegations: On November 17, 2022, the Tenants got upset and a knife fell out of his pocket as he walked towards staff threatening consequences if his maintenance request was not addressed; on December 6, 2021, the Landlord sent the Tenants a letter to stop aggressive behaviour to staff; on February 26, 2022
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the Landlord received 3 noise complaints of loud music at 6:16pm, 9:25 pm, 10:49 pm and told the Landlord's staff to [F-off] and slammed door in his face; on March 8, 2022, the Tenants called the Landlord's staff screaming; on March 31, 2022, a resident reported the Tenants verbally attacked him as a joke; on April 7, 2022 the Landlord received two complaints of loud music, and on April 8, 2022 the Tenants went to the Landlord's office to warn them he would be playing loud music.

2. I find the Tenants stopped the conduct or activity or corrected the omission within seven days after receiving the N5 notice of termination as it relates to the yelling and exhibiting rude behaviour towards the Landlord's staff and other tenants(s) in the complex. Therefore, the Tenants voided this portion of the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).
3. The Tenants did not stop the conduct or activity that corrected the omission within seven days after receiving the N5 notice of termination as it relates to the noise disturbances when he played loud music on April 12, 2022, at 7:43 am and April 14, 2022 at 7:30 pm which is not disputed. The Landlord received complaints from other tenants, about loud music which the Tenant refused to lower when the AP went to his door until just before police/by law was called, during the seven day voiding period. The Landlord has a duty to address other tenants' complaints and the Tenant's actions to ignore warning to keep the music lower substantially interferes with the Landlords interests. The Tenants did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).

Relief from eviction

4. 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 not be unfair to grant relief from eviction subject to the conditions set out in this order pursuant to subsection 83(1)(a) and 204(1) of the Act.
5. The inference that the knife was used as a means of intimidation was not supported by witnesses' testimonies who confirmed the knife inadvertently fell out of the Tenant's pocket and was immediately picked up and returned it to the Tenant's pocket when it fell out.

- The Tenant, responsible for the noise is remorseful and takes responsibility for the noise disturbances having ignored APs request to lower the music. The Tenant has moved his music system to the garage to avoid playing his device and commits to be mindful of other tenants' reasonable enjoyment of their unit and complex to avoid future complaints that substantially interferes with the Landlord's interests.

It is ordered that:

- The Tenants, occupant(s) of the rental unit or guest of the Tenants, for a twelve-month period, shall not cause excessive noise disturbances which substantially interferes with another tenants' reasonable enjoyment of the rental unit or residential complex or substantially interferes with the Landlord's interests.

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- Since noise is subjective, and to ensure the most efficient use of the Board's time and resources, if an application is made under section 78 of the Act, the Landlord shall provide the LTB and the Tenants with a copy of the written complaint letter including details about the nature, time of the noise disturbance, duration and impact/interference caused to other tenant(s) reasonable enjoyment of their unit or residential complex that supports the disturbance reaches the level of substantial or that the interferes with the Landlords interests, privileges or rights is substantial.
- If the Tenants fail to comply with the conditions set out in paragraph 1 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') provided they comply with paragraph 2, hereof, for an order terminating the tenancy and evicting the Tenants. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenants.

March 22, 2023

Date Issued

Sandra Macchione

Member, Landlord and Tenants 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.

