



Order under Section 69
Residential Tenancies Act, 2006

Citation: Pinedale Properties Ltd. v Davoodi, 2023 ONLTB 25783

Date: 2023-03-22

File Number: LTB-L-006810-23

In the matter of: 311, 14 Carluke Crescent Toronto
Ontario M2L2H8

Between: Pinedale Properties Ltd. Landlord

and

Iman Davoodi Tenant

Pinedale Properties Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Iman Davoodi (the 'Tenant') because:

- 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 March 8, 2023.

The Landlord's Legal Representative, Samuel Korman, attended the hearing. Bogban Paul Nicolau, the Residential Complex' Superintendent, and Petya Mitova, the Residential Complex' Administrator, attended as witnesses for the Landlord.

As of 9:23 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. Therefore, the Landlord's application is granted and the tenancy shall be

terminated as of April 2, 2023. However as there was no evidence of reoccurrence or investigation into the likelihood of reoccurrence the request for expedited enforcement is denied.

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

N7 Notice – Serious Impairment of Safety

3. On November 10, 2022, the Landlord served the Tenant an N7 notice of termination with a termination date of November 30, 2022 (the ‘N7 Notice’). The notice of termination alleges that on November 3, 2022, at approximately 11:23 p.m. the Tenant, while unclothed, threw heavy objects off his balcony onto the drive of the residential complex and damaged a vehicle.
4. Subsection 66(1) of the Residential Tenancies Act, 2006 (the ‘Act’) provides:

66 (1) A landlord may give a tenant notice of termination of the tenancy if,

- (a) an act or omission of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant seriously impairs or has seriously impaired the safety of any person; and
 - (b) the act or omission occurs in the residential complex.
5. The Superintendent testified that between 11:20 and 11:30 p.m. on November 30, 2022, he was alerted the Tenant was throwing objects at his car in the parking lot. He testified he saw the Tenant throw a vacuum cleaner, a water container and other heavy objects off of his balcony while unclothed. He testified he called the police and the Tenant was arrested. He testified the Tenant was speaking in a different language when arrested.
 6. The Superintendent confirmed his parking spot is located next to the main entrance of the residential complex and is a few feet in front of a sidewalk frequently used to access the residential complex.
 7. The Superintendent testified his car sustained some scratches but he was able to move it before a large object was thrown that would have landed on his windshield. He also testified some smaller items fell on the sidewalk.
 8. There was no evidence the Landlord and Tenant discussed the events of November 3, 2022. The Superintendent testified the Tenant has always been very friendly to him both before and after the events of November 3, 2022. The Superintendent was not aware of any incidents that led to the events of November 3, 2022, and was not aware of any issue that might require accommodation nor of any requests for accommodation from the Tenant.
 9. As the Tenant was not present, no other circumstances were presented to me.
 10. Although there was no evidence anyone was injured, based on the uncontested evidence of the Landlord, I find there was a real risk to people’s safety when the Tenant threw heavy objects off of his 3rd floor balcony into the below parking lot of the residential complex. As a result, I find the Tenant seriously impaired the safety of another person in the residential complex.

Daily compensation and rent deposit

11. Although daily compensation was requested on the application it was not raised at the hearing. The Landlord's Representative advised an application is proceeding for arrears. In these circumstances, the Landlord's claim for daily compensation is dismissed.
12. The Landlord incurred costs of \$201.00 for filing the application and is entitled to reimbursement of those costs.
13. The Landlord collected a rent deposit of \$1,893.10 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$16.59 is owing to the Tenant for the period from February 1, 2021 to March 8, 2023.
14. In accordance with subsection 106(10) of the Act, the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

Relief from eviction

15. The Landlord sought an order for termination of tenancy and requested expedited enforcement with the Sherriff.
16. Pursuant to section 84 of the Act the Board shall request the Sherriff expedite the enforcement of the order when termination is granted based on a finding there was a serious impairment of safety. However, this provision is subject to considerations under section 83(1)(b) of the Act.
17. There was no evidence the events that led to this application have or would reoccur. As a result, I find the request to expedite eviction is not warranted. While I agree the evidence supports finding there was no warning in advance of the events in issue, the Landlord had the opportunity to engage the Tenant in discussions after and determine the cause and/ or likelihood of reoccurrence and there was no evidence they did. Therefore, I do not find the Landlord is able to rely on an absence of warning to support a request for expedited enforcement.
18. 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.

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 2, 2023.
2. If the unit is not vacated on or before April 2, 2023, then starting April 3, 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 3, 2023.
4. The Tenant shall pay to the Landlord \$201.00 for the cost of filing the application.

5. As of the date of the hearing, the amount of the rent deposit and interest the Landlord owes on the rent deposit exceeds the amount the Landlord is entitled to by \$(1,708.69).
6. However, the Landlord is authorized to deduct from amount owing to the Tenant \$63.02 per day for compensation for the use of the unit starting March 9, 2023, to the date the Tenant moves out of the unit.
7. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

March 22, 2023

Date Issued

Rebecca Case

Vice Chair, 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 3, 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.