



Order under Section 89
Residential Tenancies Act, 2006

Citation: Capreit Limited Partnership v Iolyn, 2023 ONLTB 25576

Date: 2023-03-21

File Number: LTB-L-048583-22

In the matter of: 1701, 33 Orchard View Boulevard Toronto
Ontario M4R2E9

Between: Capreit Limited Partnership Landlord

And

Diana Iolyn Tenant

Capreit Limited Partnership (the 'Landlord') applied for an order to terminate the tenancy and evict Diana Iolyn (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 and 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.

The Landlord also applied for an order requiring the Tenant to pay the Landlord's reasonable outof-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 February 9, 2023.

Only the Landlord's agent Norman Jaques (N.J) and the Landlord's legal representative G. Paine, attended the hearing.

As of 10:26 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. The Tenant vacated the rental unit July 19, 2022.
2. The Tenant was in possession of the rental unit at the time the application was filed with the Board.

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3. The governing provision for the purposes of this application is section 89 of the Residential Tenancies Act, 2006 ('the Act') which reads:

A landlord may apply to the Board for an order requiring a 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 the tenant, another occupant of the rental unit or a person whom the tenant permits in the residential complex wilfully or negligently causes undue damage to the rental unit or the residential complex and the tenant is in possession of the rental unit.

[Emphasis Added]

4. Since the Landlord filed the application, the Landlord bears the burden to prove on a balance of probabilities that either the Tenant, another occupant of the rental unit, or a person whom the tenant permitted in the residential complex, willfully or negligently caused damage to the rental unit or residential complex.
5. As explained below, the Landlord has proven on a balance of probabilities the grounds for the claim for compensation in the application. Therefore, I will award the Landlord reasonable out-of-pocket costs the Landlord has incurred to replace undue damage to property in the residential complex.
6. N.J claimed that on February 13, 2022, the Tenant's guest, or occupant, was seen from the building's video surveillance exiting the Tenant's rental unit where the person proceeded to hallway and to other common areas in the residential complex and later detached a security camera. N.J testified that when he went to inspect the area where the camera was located, he observed that the camera was missing, and it had been ripped off from its cable/wiring. Video surveillance recordings from February 13, 2022, were filed with the Board which corroborated the claim.
7. The Landlord seeks \$783.35 in costs the Landlord has incurred to replace the damaged property in the residential complex. This claim was supported by an invoice filed with the Board. This invoice shows that the Landlord paid a total of \$783.35 to have a technician install another camera.

8. Based on the evidence adduced at the hearing, I am satisfied on the balance of probabilities, that the Tenant permitted this person in the residential complex and was either the Tenant's guest or an occupant of the rental unit, and this person wilfully or negligently caused undue damage to the residential complex by detaching the security camera from its cable/wiring. Based on the amount required to replace the issue I find that the damage was undue.
9. Accordingly, I will award the Landlord \$783.35 for reasonable out of pocket costs to replace the damaged property.

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It is ordered that:

1. The Tenant shall pay to the Landlord \$785.35, which represents the reasonable costs of replacing the damaged property.
2. The Tenant shall also pay to the Landlord \$201.00 for the cost of filing the application.
3. The total amount the Tenant owes the Landlord is \$986.35.
4. If the Tenant does not pay the Landlord the full amount owing on or before April 1, 2023, the Tenant will start to owe interest. This will be simple interest calculated from April 2, 2023 at 5.00% annually on the balance outstanding.

March 21, 2023

Date Issued

Member, Landlord and Tenant Board

Inderdeep Padda

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.