



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

Citation: Twito v Pattimore, 2023 ONLTB 26325

Date: 2023-03-17

File Number: LTB-L-041120-22

In the matter of: BASEMENT, 204 YEATES AVE BARRIE
ON L4N4C6

Between: Raphael Twito Landlord

And

Meagan Pattimore Tenants
Tyler Pattimore

Raphael Twito (the 'Landlord') applied for an order to terminate the tenancy and evict Meagan Pattimore, Tyler Pattimore (the 'Tenants') because:

- the Tenants, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises;
- the Tenants, another occupant of the rental unit or someone the Tenant permitted in the building has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord in a building that has three or fewer residential units and the Landlord resides in the building.

The Landlord also applied for an order requiring the Tenants 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 Tenants, another occupant of the rental unit or someone the Tenant permitted in the residential complex.

This application was heard by videoconference on December 21, 2022. Only the Landlord and their legal representative, E. Vasilieva attended the hearing.

I waited until after 9:30am to call the matter, the Tenants were 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. At the hearing, the Landlord requested to withdraw their application for damages under section 63 of the Act. This order addresses the application made only under section 65 of the Act.

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2. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy therefore the application is granted, and the tenancy shall terminate.
3. The Tenant was in possession of the rental unit on the date the application was filed.
4. On July 21, 2022, the Landlord gave the Tenant an N7 notice of termination. The notice of termination contains in part, that on July 16, 2022, the Landlord conducted an inspection of the rental unit and found damages to the rental unit caused by the Tenants.
5. The building has three or fewer residential units.
6. The Landlord lives in the building.
7. Based on the uncontested evidence at the hearing, I find that this conduct has substantially interfered with the Landlord's reasonable enjoyment of the building.

RELIEF FROM EVICTION

8. 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.
9. As noted, the Tenant did not attend the hearing of this matter and thus I did not have the opportunity to hear their evidence regarding their circumstances. or to dispute the Landlord's application for an eviction order.
10. The Landlord requested expedited enforcement as this notice is based off section 65 of the Act, however after considering the evidence and submissions of the Landlord I do not find

that the circumstances of this case give rise to what section 84 of the Act intended. In my view, section 84 is intended for the most egregious conduct- which is not present in this case. Expedited enforcement of this eviction order is therefore denied.

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 March 22, 2023.
2. If the unit is not vacated on or before March 22, 2023, then starting March 23, 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 March 23, 2023.
4. The Landlord shall apply the last months rent deposit to the last month of the tenancy and shall credit any interest owed to the Tenants on that deposit.

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5. The Tenants shall pay to the Landlord \$186.00 for the cost of filing the application.
6. If the Tenants do not pay the Landlord the full amount owing on or before March 22, 2023, the Tenant will start to owe interest. This will be simple interest calculated from March 23, 2023 at 5.00% annually on the balance outstanding.

March 17, 2023

Date Issued

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 September 23, 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.

