



**Order under Section 69 / 88.2
Residential Tenancies Act, 2006**

Citation: Wilson v Page, 2023 ONLTB 20669

Date: 2023-02-22

File Number: LTB-L-018016-22

In the matter of: 427 BAY ST
PORT PERRY ON L9L1M7

Between: Scott Wilson Landlords
Wilson Elizabeth

And

Ian Page Tenants
Jamie Page
Terri Cavers

Scott Wilson and Wilson Elizabeth (the 'Landlords') applied for an order to terminate the tenancy and evict Ian Page, Jamie Page and Terri Cavers (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 Landlords or another tenant.

Scott Wilson and Wilson Elizabeth (the 'Landlords') also applied for an order requiring Ian Page, Jamie Page and Terri Cavers (the 'Tenants') to pay the Landlords' reasonable out-of-pocket expenses that are the result of the Tenants' failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

This application was heard by videoconference on February 8, 2023.

The Landlords' Legal Representative Thirusenthuran Sivapatham and the Tenant Ian Page attended the hearing. I was satisfied the other Tenants named in the application were aware of the hearing and that Mr. Page was attending on their behalf.

Determinations:

1. At the hearing the Landlords' Legal Representative relied on oral submissions and referred to documents to support their application. The Tenants were also given an opportunity to provide submissions and evidence.
2. The Tenants are in possession of the rental unit and were on the date the application was filed

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3. On February 27, 2022, the Landlords mailed the Tenants an N5 notice of termination. It was deemed served on March 4, 2022. The notice of termination contains the following allegations:
 - a) The Tenants have not paid the water and sewer utility bill as required by the tenancy agreement and as a result have substantially interfered with a lawful right or privilege of the Landlords. The N5 Notice includes an account of the amount unpaid by the Tenants in the amount of \$3,209.57.
4. The Landlords' Legal Representative submitted invoices from the Regional Municipality of Durham. The invoices are addressed to the Landlords and the Tenant Terri Cavers. They are for the address of the rental unit.
5. At the hearing, the Tenant Mr. Page, acknowledged the tenancy agreement required the Tenants to pay the water and sewer utility bills. His testimony was another Tenant told him the utilities had all been paid and were up to date. He acknowledged he had no evidence of any payments to provide the Board or the Landlords. His evidence was he cannot be 100% sure the water and sewer utility bills were paid.
6. I find on a balance of probabilities the Tenants did not pay the outstanding utility costs within seven days of receiving the N5 Notice of Termination. The Tenants provided no reliable evidence they resumed their obligation or make payments towards the water and sewer utility costs. Therefore, the Tenants did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act). I also find on a balance of probabilities the Tenants have substantially interfered with a lawful right, privilege or interest of the Landlords by amassing a significant amount of unpaid utility bills in the Landlords' names.
7. Prior to the hearing, the Landlords submitted a request to amend their L2 application to include the unpaid water and sewer utility bills that have accumulated since the application was originally filed. The Tenants voiced no objection to the request and since the request was made in a timely manner and introduced no new issue to the application, I granted the request. The total amount of unpaid water and sewer utility bills sought at the hearing by the Landlords was \$4,522.90. This amount was substantiated by invoices from the Regional Municipality of Durham that were submitted in evidence by the Landlords' Legal Representative.

8. I find the Landlords have incurred reasonable out of pocket expenses in the amount of \$4,522.90 as a result of the Tenants' failure to pay the water and sewer utility costs and pursuant to section 88.2 of the Act, they will be ordered.
9. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
10. 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. I asked the Tenant Mr. Page if there were any circumstances the Tenants were experiencing that would make eviction unfair. Mr. Page responded that he had nothing to say other than they "never paid". No evidence or submissions were presented in support of granting relief from eviction.

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It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated. The Tenants must move out of the rental unit on or before March 5, 2023.
2. If the unit is not vacated on or before March 5, 2023, then starting March 6, 2023, the Landlords 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 Landlords on or after March 6, 2023.
4. The Tenants shall pay to the Landlords \$4,522.90, which represents the reasonable out-of-pocket expenses the Landlords has incurred as a result of the unpaid utility costs.
5. The Tenants shall also pay to the Landlords \$186.00 for the cost of filing the application.
6. The total amount the Tenants owe the Landlords is \$4,708.90.
7. If the Tenants do not pay the Landlords the full amount owing on or before March 5, 2023, the Tenants will start to owe interest. This will be simple interest calculated from March 6, 2023 at 5.00% annually on the balance outstanding.

February 22, 2023

Date Issued

John Cashmore

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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenants expires on September 6, 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.