



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

**Citation:** 2763070 Ontario Ltd v Johnson, 2023 ONLTB 20608

**Date:** 2023-02-15

**File Number:** LTB-L-016425-22

**In the matter of:** 10, 1310 Pierre Avenue  
WINDSOR ON N8X2E5

**Between:** 2763070 Ontario Ltd Landlord

**And**

Christine Johnson Tenant

2763070 Ontario Ltd (the 'Landlord') applied for an order to terminate the tenancy and evict Christine Johnson (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;
- 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.

This application was heard by videoconference on February 6, 2023. Only the Landlord's agent Mark Hooper attended the hearing. As of 10:03am, the Tenant was not present despite being served with notice of hearing by the Board.

**Determinations:**

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. The Landlord's application is based on an N5 notice of termination served to the Tenant on March 9, 2022 with a termination date of March 30, 2022.

Landlord's evidence:

Noise:

4. On January 13, 2022 at approximately 5:00pm, the Landlord received a complaint from a neighbouring resident regarding excessive noise emanating from the rental unit. The Landlord attended the residential complex shortly after the received complaint and confirmed the excess noise emanating from the rental unit. The noise consisted of shouting, yelling and arguing.

5. On March 16, 2022 the Landlord received a call from a neighbouring resident reporting excessive noise emanating from the rental unit. The noise consisted of shouting, yelling and arguing.

Wilful and/or negligent damages:

6. On or about March 2, 2022 the Landlord entered the rental unit to inspect the Tenant's refrigerator. During the inspection the Landlord discovered a burn mark in the floor of the unit. The Landlord submitted into evidence a photograph of the burn mark (LL exhibit #1) and stated that the Tenant admitted to the damages by spilling a hot pot of oil on the floor.
7. On the N5 notice the Landlord estimated that it would costs approximately \$400.00 to repair or replace the damaged property. As of the hearing date, the Tenant had not paid the estimated amount to repair the damages to the floor.

Tenant/liability insurance:

8. The Tenant moved into the rental unit on or about October 5, 2021. The Landlord submitted into evidence a copy of the lease agreement confirming that the Tenant is responsible for obtaining their own tenant and/or liability insurance (LL exhibit #2). As of the date the N5 notice was served and the hearing date, the Tenant had not provided proof of tenant and/or liability insurance.

Analysis:

9. Based on the evidence before the Board I find on a balance of probabilities that the Tenant has wilfully and/or negligently damaged the rental unit by burning the kitchen floor. The Landlord's testimony was uncontested and further supported by a photograph of the damaged area. I also find that the Tenant has failed to void this section of the N5 notice by paying to the Landlord the reasonable costs to repair and or replace the damaged property within seven days of being served the notice as required by subsection 62(3) of the Act.
10. I also find that the Tenant has substantially interfered with the reasonable enjoyment, lawful rights, privileges and/or interests of the landlord and other residents within the residential complex by allowing excessive noise to emanate from within the rental unit. The Landlord's uncontested evidence also indicates that the Tenant has failed to void the N5 notice within seven days of receiving the notice by allowing excessive noise to emanate from within the rental unit on March 16, 2022. As the notice was served on March 9, 2022, the Tenant was required to cease or correct the conduct during the period of March 10 – 16, 2022.
11. Finally, I find that the Tenant failing to obtain and/or provide proof of liability insurance also substantially interferes with the Landlord's reasonable enjoyment, lawful right, privilege and/or interests of the rental unit.

12. Although the Act is silent on a Tenants obligation to obtain liability insurance. In *Stanbar Properties Ltd. v. Rooke*, [2005] O.J. No. 6363, Divisional Court held that breach of a tenancy agreement can amount to substantial interference for the purpose of section 64 of the Act, providing that the said breach does not contravene a section prescribed in the Act.
13. Based on the uncontested evidence before the Board, I am satisfied that the Tenant has failed to obtain and/or provide proof of tenant and/or liability insurance. I am also satisfied that the Tenant's lease agreement requires them to actively maintain liability insurance. As the Tenant has breached the conditions of their lease agreement, I find that the Tenants conduct is in breach of section 64 of the Act as set out in *Stanbar*.
14. I am also satisfied that the Tenant has failed to void this portion of the N5 notice by providing the Landlord with proof of tenant and/or liability insurance on or before March 16, 2022, which is seven days after the notice was served. I accept the Landlord's uncontested testimony that as of the hearing date, the Tenant has not obtained or provided proof of tenant and/or liability insurance.
15. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

**Relief from eviction:**

16. 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.
17. The Tenant was not present at the hearing to dispute the Landlord's allegations and further was not present propose an alternative to eviction or give evidence that the conduct would be corrected going forward. As such, I will grant the Landlord's request for termination of tenancy.

**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 February 26, 2023.
2. If the unit is not vacated on or before February 26, 2023, then starting February 27, 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 February 27, 2023.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before February 26, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 27, 2023 at 5.00% annually on the balance outstanding.

**February 15, 2023**  
**Date Issued**

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Fabio Quattrociochi  
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 Tenant expires on August 27, 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.