



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

Citation: London & Middlesex Community Housing Inc. v Antone, 2023 ONLTB 20448

Date: 2023-02-15

File Number: LTB-L-056067-22

In the matter of: 412, 580 DUNDAS ST
LONDON ON N6B1W9

Between: London & Middlesex Community Housing Inc. Landlord

And

Justin Antone Tenant

London & Middlesex Community Housing Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict Justin Antone (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 Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on January 30, 2023.

Only the Landlord's agent, J. Drewitt, and the Landlord's legal representative, C. Burgess, attended the hearing.

As of 2:30 p.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.
2. The Landlord served the Tenant with an N5 notice of termination on September 12, 2022, alleging that the Tenant's rental unit was cluttered and unclean, there was hoarding in the unit, and the rental unit presented a hazard to the safety of the Tenant and the residential complex.
3. The Landlord's witness, J. Drewitt (JD) said that the Landlord's employees did an inspection on September 22, 2022, and the unit continued to be cluttered, the smoke

detector had been removed despite the presence of a large propane tank in the unit, there were cockroaches, and it was impossible to move through the unit due to the clutter. Consequently, the Landlord alleges that the Tenant did not void the N5 notice of termination within the voiding period.

4. JD testified that unit inspections had been carried out on the rental unit on June 10, June 17 and August 29, 2022. He submitted into evidence photos from these inspections. JD said that the walls of the unit were covered in graffiti, the unit was unclean and cluttered, and the balcony was cluttered with damaged items. He said that the balcony was of most concern to the Landlord, because the balcony was in a part of the building that experienced high foot traffic, and anything falling from the balcony would present a serious safety hazard to those passing by. He said that the condition of the unit did not improve throughout the summer of 2022. JD said that he personally spoke with the Tenant during the inspections on June 17, 2022, and on August 25, 2022. He said that despite having explained the hazards presented by the Tenant's unit, the condition observed on August 29, 2022, was not at all improved.
5. JD said that the Landlord had connected the Tenant with supports at London Care, and he had sent messages and spoke with workers at London Care telling them that the Tenant's rental unit condition could affect the Tenant's tenancy.
6. JD submitted into evidence photos from the inspection on September 22, 2022, after the N5 notice of termination had been served. They showed the unit to be severely cluttered, having a propane tank in the bathroom, smoke detectors removed. He said that the kitchen could not be used due to the clutter, and there was damage to the appliances.
7. JD said that there is an ongoing leak from the rental unit bathroom into the unit below, but it cannot be repaired due to all the debris and clutter. He said that they have been unable to repair it for several months, even though a plumber has come to the unit multiple times.
8. JD submitted into evidence photos from the most recent inspection on January 20, 2023, and the unit was in the same condition or worse. Half of the bathroom door had been sawn off, and the balcony remained inaccessible. JD said that the Tenant would not permit access to the bathroom for that inspection, and that is why the bathroom door was closed. JD said that the Tenant was present for that inspection, and he could not tell JD where the smoke detector was, and he was confrontational about the detectors being removed. JD said that the Tenant adamantly refused to remove anything from the balcony. JD said that they spoke about the upcoming hearing, and the Tenant told him he would inform London Care.
9. JD said that the ceiling to the unit below the rental unit collapsed in December 2022, and the Landlord has incurred expenses for emergency repairs over the Autumn of 2022. He said that the tenant in the unit below the rental unit has had to be relocated because the Landlord has been unable to fully repair the damage. He said that there is now no one living in the unit below, because it is not habitable.
10. The Landlord requests an order for eviction of the Tenant. The Landlord submits that the unit condition has become steadily worse, and the Tenant will not address the problem. The Landlord submits that the Tenant has refused to deal with the balcony, and it presents a hazard to other tenants. The Landlord submits that, as a result of the Tenant's behaviour and failure to permit proper access to his bathroom, the unit below has become

uninhabitable because of the unrepaired leak, and the Landlord has one less subsidized rental unit available.

Reasons and Analysis:

11. The Landlord's evidence proves, on a balance of probabilities, that the Tenant did not void the N5 notice of termination within the voiding period, and the condition of the Tenant's unit has gotten steadily worse since the Landlord served the N5 notice of termination.
12. The Landlord's evidence proves, on a balance of probabilities, that the Landlord has explained the problem to the Tenant, and it has attempted to connect the Tenant to supports in the community. Nevertheless, the Tenant has refused to improve the condition of his unit, and he has refused to permit a proper repair of the leak from his bathroom, and now the unit below his is uninhabitable.
13. Therefore, the Landlord has proved, on a balance of probabilities, that 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.

Relief from Eviction

14. The Landlord has inspected the unit on multiple occasions, with no improvement. The Landlord has explained the problem to the Tenant, but the Tenant has refused to address the problem. The Landlord has attempted to connect the Tenant to supports in the community, and the Landlord has kept community supports apprised of the situation and the application. Nothing has changed, and now the Landlord has one less subsidized unit to offer due to the unrepaired leak from the rental unit. Consequently, there is little prospect that the situation will improve, or that a conditional order would be effective. The tenancy is no longer viable, and it is prejudicial to the Landlord for the tenancy to continue.
15. I have considered all of the disclosed circumstances above in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and I 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 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 also 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

Nancy Morris

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.