



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

Citation: YMCA of Hamilton/Burlington/Brantford v YMCA, 2023 ONLTB 19891

Date: 2023-02-10

File Number: LTB-L-029230-22

In the matter of: 212, 79 James St. S.
Hamilton ON L8P2Z1

Between: YMCA of Hamilton/Burlington/Brantford Landlord

And

Tim Potter Tenant

YMCA of Hamilton/Burlington/Brantford (the 'Landlord') applied for an order to terminate the tenancy and evict Tim Potter (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or a person the Tenant permitted in the residential complex has seriously impaired the safety of any person and the act or omission occurred in the residential complex.

This application was heard by videoconference on February 6, 2023.

Only the Landlord's Agent Genevieve Hladysh attended the hearing.

As of 9:30 a.m., the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. I took attendance for those present at the hearing and at the time the file was called, there were no persons waiting to be admitted to the virtual hearing. There was no record of a request to adjourn the hearing. Since the Tenant did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

- As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated effective February 15, 2023.
- The Tenant was in possession of the rental unit on the date the application was filed.

N7 Notice of Termination

- On September 5, 2022 the Landlord served the Tenant with an N7 Notice of Termination. The termination date contained in the Notice was September 15, 2022. The N7 Notice contains the following allegation:

- a) On Sunday August 28, 2022, there was a fire in the residential complex and the Tenant's scooter was blocking the fire exit. The Landlord received complaints from other residents that the door was not accessible and this was confirmed with video footage. The Tenant has been warned by the Landlord and Fire Department about the hazard created by storing personal belongings in the hallway.
4. The Landlord's Agent, Ms. Hladysh, testified that she is the senior regional manager for the Landlord and oversees the residential complex. The residential complex is four floors and has 174 residential units. The residents share congregate washrooms and shower facilities. On the Tenant's floor there are 43 rental units.
 5. Ms. Hladysh testified that on August 28, 2022 at approximately 12:00 a.m., there was a fire alarm in the residential complex. The Tenant was storing a number of personal items in the hallway including a scooter. The Landlord received complaints from other residents because they could not access the fire exit as the Tenant's belongings blocked clear passage to it.
 6. The fire department attended the residential complex and in front of Ms. Hladysh, gave the Tenant a warning to remove his personal items. The fire department also advised both the Tenant and the Landlord the storing of personal items in the hallway is a significant safety issue and that both the Tenant and Landlord could be fined.
 7. Since the N7 Notice of Termination was served, another such incident occurred on January 16, 2023. The fire alarm activated in the residential complex and again other residents were prevented from accessing the fire exit because the Tenant continues to store personal belongings in the hallway. Ms. Hladysh testified the Tenant has not complied with the fire department's demands and has to be continually told to remove his person belongings from the hallway.
 8. Based on the uncontested evidence of the Landlord, I am satisfied on a balance of probabilities the Tenant has seriously impaired the safety of other residents and the act or omission occurred in the residential complex. I further find that since the N7 Notice was served on the Tenant, he has continued to impair the safety of the other residents. Clear passage to a fire exit is a basic safety requirement and the Tenant's continued blocking of this access with personal items seriously impairs the safety of others.

Relief from Eviction

9. At the hearing the Landlord sought an eviction of the Tenant. They stressed the importance of providing a safe environment for the other tenants in the residential complex. I asked the Landlord if they were aware of any circumstances the Tenant might be experiencing that would make an eviction unfair. They responded they were aware of none other than the Tenant may have recently been involved with the police. The Tenant did not attend the hearing to provide evidence or submissions in support of granting relief from eviction.
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.

11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

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 15, 2023.
2. If the unit is not vacated on or before February 15, 2023, then starting February 16, 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 16, 2023. The Sheriff is requested to expedite the enforcement of this order.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. The total amount the Tenant owes the Landlord is \$186.00.
6. If the Tenant does not pay the Landlord the full amount owing on or before February 15, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 16, 2023 at 5.00% annually on the balance outstanding.

2023 ONLTB 19891 (CanLII)

February 10, 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 Tenant expires on August 16, 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.