



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

Citation: MEDALLION CORPORATION v Bober, 2023 ONLTB 17471

Date: 2023-01-31

File Number: LTB-L-039834-22

In the matter of: 7B, 59 RIDOUT ST S
LONDON ON N6C3W9

Between: MEDALLION CORPORATION Landlord

And

David Bober Tenant

MEDALLION CORPORATION (the 'Landlord') applied for an order to terminate the tenancy and evict David Bober (the 'Tenant') because:

- the Tenant or another occupant of the rental unit has committed an illegal act or has carried out, or permitted someone to carry out an illegal trade, business or occupation in the rental unit or the residential complex involving the production of an illegal drug, the trafficking in an illegal drug or the possession of an illegal drug for the purposes of trafficking;
- 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.

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 17, 2023.

The Landlord's agent John Ward (JW), witness Ryan Hannivan (RH) and Landlord's representative Marija Pavic (MP) attended the hearing.

As of 1:52 pm, 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 and Reasons:

1. The Landlord's application is based on two notices of termination relating to the conduct of the Tenant: an N6 notice of termination given under subsection 61(1) of the *Residential Tenancies Act, 2006* (the 'Act'), alleging that the Tenant has committed an illegal act or is carrying on an illegal business with respect to the production and trafficking of an illegal drug. The N7 notice given under subsection 66 of the Act, alleges that the actions of the

Tenant have seriously impaired the safety of another person. Both notices were served on June 27, 2022, with a termination date of July 18, 2022.

2. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application as detailed below.
3. By way of background this is a month to month tenancy in which rent is due on the first of each month. The rental unit is an apartment in a multi unit complex and the tenancy began around November 2019.
4. The Tenant was in possession of the rental unit on the date the application was filed.
5. The Landlord submitted as evidence photos, videos and other documentation.
6. Although this order does not specifically address each piece of evidence individually or reference all of the testimony, I have considered all of the evidence and oral testimony when making my determinations.

N6 Notice of Termination – Illegal Drugs

7. In order for the Landlord's application to be successful, the Landlord must establish that events described in the N6 notice expressly relate to the acts of drug trafficking or production. If the Landlord cannot prove, on balance of probabilities, that the events in the notice relate to drug trafficking or production, I cannot issue an order evicting based upon an application made pursuant to that notice. Proof of the presence or use of drugs by the Tenant, other occupants, or guests, is not sufficient for the Landlord's application to succeed.
8. An N6 notice made under section 61(2)(a) relating to drug trafficking or production is intended to address serious or urgent issues affecting the residential complex as made clear by the fact it affords the landlord certain special rights over and above "normal" N6 notices relating to other illegal acts. The notice of termination made under section 61(2)(a) may require that the Tenant vacate as soon as ten days following the service of the notice (the "normal" notice period is twenty days), and under section 84 of the Act, the landlord is entitled to expedite eviction enforcement by the Sheriff if the LTB issues an eviction order based on such a notice.
9. The acts alleged in the notice of termination relate to the conduct of the Tenant at the residential complex on July 21, 2021, August 20, 2021, May 16 and 17, 2022, summarized as follows:
 - drug paraphernalia outside the Tenant's window, Tenant's admissions of drug trafficking from the rental unit and details surrounding a number of drug exchanges.
10. The N6 notice alleges that the Tenant has contravened provisions of the Controlled Drugs and Substances Act, S.C.1996, specifically sections 4 and 5 as well as section 61(2)(a) of the Act.
11. Significant testimony was given by JW who was Superintendent at the time of the allegation in the notices. JW described in detail his first hand accounts with the Tenant

and various encounters with “drug exchanges” at the residential complex. JW testified that the Tenant acknowledged he was trafficking drugs from his rental unit.

12. JW also said the Tenant’s actions has had an impact on other tenants who are fearful of the unwelcomed guests and drug activity. He said he has received numerous complaints from other tenants.
13. The Landlord’s witness RH, tenant at the residential complex, testified that he witnessed an exchange of drugs for money between the Tenant and a guest and that he often sees guests of the Tenant “half dead” at the residential complex after using a straw, lighter and inhaling the substance provided to the guest by the Tenant. RH said that due to the Tenant’s behaviour, he feels anxious and unsafe at the residential complex.
14. Based on the uncontested evidence before the Board, I am satisfied on a balance of probabilities that the Tenant has committed an illegal act that includes possession for the purposes of trafficking an illegal drug and that further by doing so has placed other residents of this residential complex in an unsafe position due to the behaviour of the Tenant and the dangerous nature of the drug business. I find that the Landlord has met the requirements of section 61(2)(a) of the Act and an order will issue accordingly.

N7 Notice of Termination- Serious Impairment of Safety

15. The N7 notice contains allegations pertaining to aggressive dog behaviour from the Tenant’s guest’s dog around May 29, 2022 and June 1, 2022. Specifically, an incident where the dog bit an individual passing by, causing injury to the victim and multiple reports of the dog running throughout the residential complex unattended and/or off leash or uncontrolled.
16. JW testified that the after reports of the uncontrolled and unrestrained dog at the residential complex, he issued a notice of violation to the Tenant around June 1, 2022. One of the incidents occurred around May 29, 2022 when the dog bit another tenant’s upper leg when the Tenant’s guest was walking the dog. Although the dog was on leash, it lunged and bit the individual. JW said the guest was not able to restrain the dog as it is a large boxer/bull mastiff breed weighing approximately 100 pounds.
17. JW then said that despite the notice and attempts to discuss this with the Tenant, the dog continues to be uncontrolled and has also bitten a fire fighter at the residential complex around August 2022.
18. JW said that Animal Control and London Health have been involved with the Tenant, guest and the dog issues.
19. The Landlord seeks a termination of the tenancy as the Tenant’s failure to restrain the dog and allowing it to wander the complex either unrestrained or uncontrolled has seriously impaired the safety of others at the residential complex.
20. Section 66(1) of the Act states that a landlord may give a tenant notice of termination if,
 - (a) an act or omission of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant seriously impairs or has seriously impaired the safety of any person; and

(b) the act or omission occurs in the residential complex.

21. In *Furr v. Courtland Mews Cooperative Housing Inc.*, 2020 ONSC 1175, the Courts find at paragraph 17:

[17] ...In 2276761 Ontario Inc. v. Overall, 2018 ONSC 3264, the Divisional Court made it clear that serious impairment of safety includes both actual impairment and a real risk of impairment. In other cases, the Board has held that it is not necessary that anyone has actually been hurt or injured and that a serious impairment of safety may include:

- (i) the potential for an outcome that has the risk of a substantial negative effect on a person's well-being;
- (ii) a foreseeable act or omission that could result in or may result in a serious impairment to safety; and
- (iii) extremely loud and intense arguments could easily result in violence and would be a safety hazard.

22. In the case before the Board, I am satisfied on a balance of probabilities that there was actual injury sustained by another tenant from the dog bite. I also find there continues to be a high risk for an injury to occur that could have catastrophic affect on any resident at the complex.
23. Based on the evidence before me and on a balance of probabilities, I am satisfied that the Tenant has seriously impaired the safety of others at the residential complex by allow the dog to roam unleashed or uncontrolled at the complex. I say this because the Tenant was made aware of the issues on several occasions by the Landlord, Animal Control and London Health. The Tenant and/or his guest allows the dog to roam freely or uncontrolled with the possibility of it attacking others and exhibiting aggressive behaviour. The Tenant knew or ought to have known about the consequences of poorly supervising or restraining the dog.
24. The evidence before the Board was that since the N7 notice was served to the Tenant, the behaviour of the dog has continued., the dog is still present at the complex at times unleashed/unrestrained and has bitten a fire fighter. As such, I do not believe circumstances warrant a conditional order as the behaviour has not improved.

Daily compensation, rent deposit

25. The Landlord said the Tenant was not in arrears of rent as of the date of the hearing.
26. Based on the monthly rent, the daily compensation is \$38.64. This amount is calculated as follows: \$1,175.30 x 12, divided by 365 days.
27. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
28. The Landlord collected a rent deposit of \$1,174.66 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$13.87 is owing to the Tenant.

29. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

Relief from Eviction

30. I turned my mind to the circumstances of the Tenant. JW said the Tenant lives alone, no children reside at the rental unit. The Tenant is approximately 45-50 years old. JW said he has no knowledge of the Tenant's financial or medical circumstances.
31. The Tenant did not participate at the hearing to testify or defend his position.
32. 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.
33. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

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 5, 2023.
2. If the unit is not vacated on or before February 5, 2023, then starting February 6, 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 6, 2023. The Sherriff is requested to expedite the enforcement of this order.
4. The Tenant shall pay the Landlord compensation of \$38.64 per day for the use of the unit starting January 18, 2023 until the date the Tenant moves out of the unit.
5. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
6. If the Tenant does not pay the Landlord the full amount owing on or before February 5, 2023, the Tenant will start to owe interest. This will be simple interest calculated from February 6, 2023 at 5.00% annually on the balance outstanding.

January 31, 2023

Date Issued

Dana Wren

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 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.