



**Order under Section 69 / 88.1 / 88.2  
Residential Tenancies Act, 2006**

**Citation:** Narayansamy v Butcher, 2023 ONLTB 17558

**Date:** 2023-01-30

**File Number:** LTB-L-046452-22

**In the matter of:** 2550 Rosedrop Path  
Oshawa Ontario L1L0L2

**Between:** Thayalan Narayansamy Landlord

**And**

Mary Butcher Tenant

Thayalan Narayansamy (the 'Landlord') applied for an order to terminate the tenancy and evict Mary Butcher (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.

The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

Thayalan Narayansamy (the 'Landlord') applied for an order requiring Mary Butcher (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's failure to pay utility costs they were required to pay under the terms of the tenancy agreement.

Thayalan Narayansamy (the 'Landlord') also applied for an order requiring Mary Butcher (the 'Tenant') to pay the Landlord's reasonable out-of-pocket costs the Landlord has incurred or will incur to repair or replace undue damage to property. The damage was caused wilfully or negligently by the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex (L2 application).

Thayalan Narayansamy (the 'Landlord') also applied for an order requiring Mary Butcher (the 'Tenant') to pay the Landlord's reasonable out-of-pocket expenses that are the result of the Tenant's conduct or that of another occupant of the rental unit or someone the Tenant permitted in the residential complex. This conduct substantially interfered with the Landlord's reasonable enjoyment of the residential complex or another lawful right, privilege or interest.

The Landlord also applied for an order determining that the Tenant altered the locking system without the Landlord's consent. (L8 application.)

This application was heard by videoconference on January 24, 2023.

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The Landlord, his representative Al Gangani, the Tenant and her representative Rajan Mahavalirajan attended the hearing.

**Determinations:**

1. As explained below, the Landlord's L2 application is dismissed as detailed below.

Preliminary Issues:

*The N6 Notice and L2 Application*

2. At the outset of the hearing, I addressed two preliminary issues.
3. The application as based on the N6 notice must be dismissed as out of time.
4. Section 69(2) of the Act says that a landlord must file the application within 30 days of the date of termination. The date of termination on the Landlord's N6 here is July 3, 2022 and the application was filed with the Board on August 3, 2022, which is more than 30 days after the date of termination. The Board does not have the jurisdiction to consider the allegations in the N6 notice.
5. Additionally, the N6 notice contained a fatal flaw as the Landlord, when serving the Tenant with the N6 notice only provided the Tenant with 19 days notice where the Act requires 20 days as detailed in s.61(2)(b).

*A New L2 Application and L1 Application*

6. The Landlord's representative said that he refiled the new L2 application once he became aware of the error around October 2022 and asked me to proceed to hear the new L2 application and the L1 application. I noted, the new L2 application also contained new allegations.
7. The Tenant's representative did not consent to having the files heard together on the date of the hearing as they were not prepared to address the various allegations that were not before the Board. The Tenant's representative said to hear the matter(s) would be procedurally unfair to the Tenant and an abuse of process by the Landlord as this is an attempt to "jump the line" after he realized the L2 application was invalid.
8. Based on the above, the current L2 application for the N6 notice was dismissed. The remaining L2 was not heard as the Landlord said he resubmitted a new L2 application and I believe the allegations will be duplicated. I did not consent to combining the files and hearing the new L2 application and the L1 application as the Tenant did not have time to prepare and defend her position. Those files will be scheduled in the Board's normal course. File LTB-L-046452-22 contained a request to combine the matters. However, the Landlord should ensure the request is based on the 2 applications yet to be scheduled by the Board.
9. On the date of the hearing, I advised the parties to prepare for the next hearing with regard to disclosure requirements and directed them to the Board website for guidance.

*L8 Application*

10. The Landlord's L8 application filed on August 3, 2022 pursuant to section 35 of the Residential Tenancies Act, 2006 alleges the Tenant altered the locking system on a door giving entry to the rental unit without the Landlord's consent.
11. As of the date of the hearing, the Tenant confirmed that she is still in possession of the rental unit.
12. There is no dispute between the parties that the Landlord has not been provided with a replacement key when the Tenant last changed the locks on or around July 16, 2022. As discussed with the parties, an order will issue requiring the Tenant to provide keys to the Landlord to the rental unit.
13. I find that the intent of section 35 of the Act is to ensure that a landlord has access to the unit in cases of emergency. Although it can be argued that the lock could be broken to gain access in the event of an emergency, I believe this section of the Act was meant to ensure that these drastic measures need not be taken. The Tenant has an obligation to ensure that the Landlord has a key to all the locking mechanisms on the door providing access to the unit.
14. With respect to the remedies sought by the Landlord, section 35 (3) of the Residential Tenancies Act, 2006 states:

35 (3) If the Board in an application under subsection (2) determines that a tenant has altered the locking system or caused it to be altered, the Board may order that the tenant provide the landlord with keys or pay the landlord the reasonable out-of-pocket expenses necessary to change the locking system.

15. The Landlord claims the amount of \$1,753.69 for locksmith(s). Upon review of the invoices, the Landlord included an estimate that was not completed and paid for by the Landlord. Accordingly, this was deducted from the amount leaving a balance of \$1,414.69.
16. This is where the dispute arises. The parties both acknowledge changing the locks at the rental unit on multiple occasions from around November 6, 2021 to July 16, 2022. Both parties acknowledge not providing the other with replacement keys/code. I found both the Landlord and Tenant's testimonies to be inconsistent and confusing at times. Specifically, the parties disputed the notice(s) of entry for the locksmiths, the reason for the change of locks, the timing of the changing of the locks and other allegations.
17. Based on the evidence before the Board and on a balance of probabilities, I am not prepared to make a finding that the Tenant is required to pay to the Landlord \$1,414.69 for various locksmiths who attended the unit.
18. This order contains all of the reasons for the decision within it. No further reasons shall be issued.

**It is ordered that:**

1. The Landlord's L2 application is dismissed.

2. The Tenant shall provide to the Landlord keys to the rental on or before February 4, 2023.

**January 30, 2023**

**Date Issued**

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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.