



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

Citation: 2368774 v Mitchell, 2023 ONLTB 14181

Date: 2023-01-09

File Number: LTB-L-036911-22

In the matter of: 103, 46 Auty Street (PO BOX 271)
WATERFORD ON N0E1Y0

Between: 2368774 Ontario Ltd. Landlord

And

Ryan Mitchell Tenant

2368774 Ontario Ltd. (the 'Landlord') applied for an order to terminate the tenancy and evict Ryan Mitchell (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;
- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has wilfully caused undue damage to the premises.

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

The Landlord also applied for an order requiring Ryan Mitchell (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.

This application was heard by videoconference on November 22, 2022.

Only the Landlord's Representative, Pati Main, attended the hearing.

As of 2:27pm, 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. The Tenant was in possession of the rental unit on the date the application was filed. As of the hearing date, the Tenant still occupied the rental unit.

2. On June 30, 2022, the Landlord properly served the Tenant an N7 notice of termination. The date of termination on the notice was for July 10, 2022. The notice of termination contains the following allegations:
 - a) The Tenant impaired the safety of others at the rental complex by acting in a disruptive manner by swearing loudly and making loud noises in the rental unit and throughout the rental complex,
 - b) The Tenant impaired the safety of others at the rental complex by carelessly handling illicit drugs by leaving what appears to be a “baggie” of drugs on the ground next to the Tenant’s driver-side door,
 - c) Willfully causing undue damage to the rental unit.
3. At the hearing, the Landlord stated that they chose to no longer pursue any of the alleged safety impairment issues on the N7 but chose to proceed with presenting evidence regarding the alleged willful damage of the rental unit.
4. Therefore, any issues regarding safety impairment are withdrawn from this application.
5. The Landlord presented photographs of the rental unit prior to being rented to the Tenant in March 2022. The photographs showed an empty rental unit free of damage to any walls or windows.
6. The Landlord entered the rental unit on June 27, 2022. The Landlord observed that the Tenant had caused significant damage to the walls, a window and the main door to the rental unit.
7. The Landlord presented evidence that showed that the Tenant damaged drywall throughout the unit. Walls in the living room and bedroom were viewed. One of the holes in the drywall was roughly in the shape of a foot. The imprint of a shoe could be seen in the damaged drywall. The holes in the drywall appear to have been created by kicking with the flat of the foot.
8. Photos were presented that showed a window damaged by impact from the interior side of the rental unit. The Landlord testified that the Tenant had later removed the damaged window, including the frame, however, the Tenant did not replace it with anything, so a large hole was left in the wall.
9. The Landlord also presented a photo of the door to the entrance of the rental unit. The door handle and the surface around the handle appeared to be damaged.
10. The Landlord presented a quote from an area drywall company. The estimate from the company was for \$1,130.00 to repair only the drywall in the rental unit. The estimate did not address any of the other damages in the rental unit.
11. The Landlord is claiming \$1,000.00 total for damages to the rental unit on the L2 application, pursuant to section 89 of the *Residential Tenancies Act* 2006 (the ‘Act’).

12. Since the Tenant was not present, there was no evidence presented to contest any of the Landlord's evidence.
13. Based on the evidence presented at the hearing, I am satisfied that the Tenant willfully caused undue damage to the rental unit.
14. The Tenant was required to pay the Landlord \$4,393.97 in daily compensation for use and occupation of the rental unit for the period from July 11, 2022, to November 22, 2022.
15. Based on the Monthly rent, the daily compensation is \$32.55. This amount is calculated as follows: \$990.00 x 12, divided by 365 days.
16. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
17. The Landlord collected a rent deposit of \$990.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$8.14 is owing to the Tenant for the period from March 18, 2022, to November 22, 2022.
18. 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.
19. I have considered all of the disclosed circumstances in accordance with section 83(2) of the Act and find that it would be unfair to grant relief from eviction pursuant to section 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 January 16, 2023.
2. If the unit is not vacated on or before January 16, 2023, then starting January 17, 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 January 17, 2023.
4. The Tenant shall pay to the Landlord \$3,395.84, which represents compensation for the use of the unit from July 11, 2022, to November 22, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.
5. The Tenant shall also pay the Landlord compensation of \$32.55 per day for the use of the unit starting November 23, 2022, until the date the Tenant moves out of the unit.
6. The Tenant shall pay to the Landlord \$1,000.00, which represents the reasonable costs of repairing the damage and replacing the damaged property.

7. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
8. The total amount the Tenant owes the Landlord is \$4,581.84 less any rent payments that have been made since July 11, 2022.
9. If the Tenant does not pay the Landlord the full amount owing on or before January 16, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 17, 2023, at 5.00% annually on the balance outstanding.

January 9, 2023
Date Issued

Robert Brown
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 July 15, 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.