



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

Citation: GOVEDARIS v BROWN, 2023 ONLTB 13976

Date: 2023-01-05

File Number: LTB-L-056789-22

In the matter of: 213, 742 PAVEY STREET
WOODSTOCK ONTARIO N4S2L9

Between: OXFORD COUNTY HOUSING\n SUZAN GOVEDARIS Landlord

And

MICHAEL BROWN Tenant

OXFORD COUNTY HOUSING and SUZAN GOVEDARIS (the 'Landlord') applied for an order to terminate the tenancy and evict MICHAEL BROWN (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 December 5, 2022.

Only the Landlord's agent Tammy MacDonald (TM) attended the hearing.

The Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. The Landlord served the Tenant with a Form N7 on April 12, 2022, with a notice of termination date of May 31, 2022.
2. Section 66 of the Residential Tenancies Act, 2006 (the "Act") provides a notice of termination may be given if an act or omission of the Tenant, another occupant or person permitted in the residential complex by the Tenant seriously impairs or has seriously impaired the safety of another person.
3. The Landlord's Form N7 alleges that on April 8, 2022, an inspection of the rental unit revealed that the rental unit was in an extreme state of clutter. The Landlord's agent, TM, was present for the inspection and testified she was unable to properly navigate throughout the rental unit due to the build up of the Tenant's belongings. TM tendered photographic evidence showing significant accumulation of boxes, papers, bottles, household and other items throughout nearly every room within the rental unit, including the bathroom, with merely a small walkway area to move within the rental unit.

4. TM further testified that the cluttered state of the unit creates an increased risk of fire and impedes the safe evacuation of occupants from the rental unit in the event of fire or other emergency situation. Based upon the Landlord's uncontested evidence, I am satisfied on a balance of probabilities that the Tenant's failure to keep the rental unit in a decluttered state has created a serious impairment of safety for the Tenant and other occupants.

Section 83

5. Section 83 requires that I consider all the circumstances, including the Tenant's and the Landlord's situations to determine if it would be appropriate to grant section 83 relief from eviction.
6. The Tenant lives alone and has resided in the rental unit for approximately 10 years. The Landlord produced an inspection order which was rendered pursuant to section 21 of the *Fire Protection and Prevention Act, 1997*, requiring the Tenant to, among other things, declutter the rental unit and ensure that there is at least 3 feet of egress width in entrance hallways and exits. The Landlord is a social housing provider and TM advised that the Landlord would be willing to provide resources and assist the Tenant in complying with the inspection order, if the Tenant is willing. The Landlord does not seek eviction at the present time, but merely a conditional order, requiring the Tenant to render the rental unit in a decluttered state so as to eliminate any further safety risk.
7. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and considering the Landlord's request that the tenancy be preserved and a section 78 Order be rendered, find that it would not be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. On or before January 10, 2023,
 - (i) the Tenant shall have the rental unit decluttered and free of debris and other excess belongings; and
 - (ii) the Tenant shall ensure there are adequate means of egress with exit pathways of at least 3-feet in width throughout the entire rental unit.
2. The Tenant shall ensure the ordinary cleanliness of the rental unit is maintained.
3. If the Tenant fails to comply with the conditions set out in paragraphs 1 or 2 of this order, the Landlord may apply under section 78 of the *Residential Tenancies Act, 2006* (the 'Act') for an order terminating the tenancy and evicting the Tenant. The Landlord must make the application within 30 days of a breach of a condition. This application is made to the LTB without notice to the Tenant.

4. The Tenant shall pay to the Landlord \$201.00 for the cost of filing the application. If the Tenant does not pay the Landlord the full amount owing on or before January 14, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 15, 2023 at 5.00% annually on the balance outstanding.

January 3, 2023

Date Issued

Peter Nicholson

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.