



Order under Section 77 Residential Tenancies Act, 2006

Citation: 2567505 ONTARIO LTD C/O HILLCREST PROPERTIES 1 LTD v WESLEY, 2023 ONLTB 13802

Date: 2023-01-04

File Number: LTB-L-065699-22

In the matter of: 04, 103 JOHN STREET SOUTH
HAMILTON ON L8N2C1

Between: 2567505 ONTARIO LTD C/O HILLCREST PROPERTIES 1 LTD Landlord

And

CRYSTAL WESLEY Tenant

2567505 ONTARIO LTD C/O HILLCREST PROPERTIES 1 LTD (the 'Landlord') applied for an order to terminate the tenancy and evict CRYSTAL WESLEY (the 'Tenants') because the Tenant entered into an agreement to terminate the tenancy.

This application was heard via video conference on December 8, 2022.

The Landlord's corporate owner, Peter Dyakowski, the Tenant and the Tenant's friend, Salvatore Traina, attended the hearing.

Determinations:

Preliminary Issue

1. This application was sent to a hearing because the application names two Tenants but the N11 agreement was only signed by one of those Tenants.
2. At the hearing, the Landlord provided a copy of the lease agreement which shows that only the first-named Tenant is a signatory to the lease. For this reason, the application is amended to remove the second-named Tenant.

The Landlord's Application

3. The key dispute before me is whether this tenancy was actually terminated on September 23, 2022, because the Tenant moved out of the rental unit. If this is true, the Landlord's application should be granted because the tenancy was already terminated. For the following reasons, I find that the tenancy was already terminated on September 23, 2022.
4. I say this because there is no dispute that the Tenant signed an N11 agreement to terminate the tenancy. Although the Tenant says that she was forced into signing the



agreement, she provided no details at the hearing regarding who precisely forced her into signing the agreement, what they said to make her feel forced or the circumstances surrounding the alleged duress she claims.

5. In addition, the Landlord provided documentary evidence from the Tenant's housing stability caseworker which confirms that the Tenant signed an agreement to terminate the tenancy and both the Tenant and the occupant were aware that they had to move out by August 31, 2022.
6. Based on the evidence before me, I am satisfied that the parties entered into an agreement to terminate the tenancy and that agreement is valid and must be enforced.
7. The Landlord's corporate owner, 'PD', then provided credible testimony regarding the events that unfolded after August 31, 2022. PD explained that he works closely with The Good Shepherd housing services to provide Tenants with stable housing and he was working with this organization to find the Tenant a new rental unit. PD gave details about his efforts but he says the Tenant eventually stopped cooperating with The Good Shepherd organization, which is why she has been unable to find alternate accommodations. The Tenant does not dispute that her relationship with The Good Shepherd was terminated due to her "non-engagement".
8. PD says that the Tenant moved out of the rental unit on September 23, 2022, using a mover and moving vehicle at the Landlord's expense. PD says the Landlord paid for the Tenant's belongings to be moved to a storage locker and also paid for the Tenant to stay in a hotel while she was looking for alternate accommodations after she moved out.
9. PD says that, once the Tenant moved out, he gained possession of the rental unit, changed the locks, boarded up the windows, cleaned the unit and began assessing the damage with a view to completing renovations. PD then attended the hotel where the Tenant was staying several times over the following weeks to pay for the Tenant's stay and he encountered the Tenant during these hotel visits. While PD was waiting for contact from his contractor, he says that the Tenant regained entry to the rental unit on or about October 22, 2022, and has been living in the rental unit ever since. The police are reluctant to become involved because they believe the Board has jurisdiction to resolve this matter.
10. PD presented his testimony in a detailed and consistent manner and I have no reason to disbelieve him. PD responded well to questions, provided extensive details regarding his dealings with The Good Shepherd as well as his dealing with the Tenant during the tenancy and after the tenancy terminated.
11. Although the Tenant disputes that she moved out, her testimony was inconsistent and at times incomprehensible. For example, the Tenant does not dispute that she stayed at a hotel for a period of time and the Landlord paid for that hotel. The Tenant also does not dispute that a moving truck attended the unit and she left the unit, but she also says she did not move out. When asked if she moved out on September 23rd, the Tenant says she did move out, but it was prior to October. When asked how she gained re-entry into the unit, the Tenant said she walked in because the rental unit does not have a door. In short,



the Tenant's testimony often rambled, she did not respond well to direct questions and her answers were internally inconsistent and at times implausible. I do not find the Tenant to be credible when she says she did not move out of the rental unit.

12. Based on the evidence before me, I am satisfied that the Tenant moved out of the rental unit on September 23, 2022, pursuant to an agreement reached by the parties to terminate the tenancy. As the tenancy has already been terminated, the Landlord's application is moot.

13. This order contains all the reasons within it and no further reasons will be issued.

It is ordered that:

1. The tenancy between the Landlord and Tenant was terminated on September 23, 2022.

January 12, 2023
Date Issued

Laura Hartsliel
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

