



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

Citation: TMG INVESTMENTS INCORPORATED v Pitre, 2022 ONLTB 13643

Date: 2022-12-06

File Number: LTB-L-033883-22

In the matter of: 2, 1981 LAWRENCE AVE E
Toronto ON M1R2Z2

Between: TMG INVESTMENTS INCORPORATED Landlord

And

Joey Pitre Tenant

2022 ONLTB 13643 (CanLII)

TMG INVESTMENTS INCORPORATED (the 'Landlord') applied for an order to terminate the tenancy and evict Joey Pitre (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.

This application was heard by videoconference on November 29, 2022

Only the Landlord's Agent Melissa Alafogiannis attended the hearing.

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 Landlord alleges that the Tenant or another occupant of the rental unit has committed an illegal act in the rental unit or the residential complex. As such, the Tenant was served with an N6 notice of termination, with a termination date of July 6, 2022.
2. In the N6 notice, the Landlord alleges that the Tenant committed the following illegal acts:
 - On June 8, 2022 by uttering violent threats to a tenant of the building saying he was going to shoot them;
 - On June 9, 2022 by assaulting an individual with a hammer while a child was in the vehicle and as a result, the Tenant was apprehended by the police.

3. Melissa Alafogiannis ('MA') testified that she was advised by a resident that just after midnight on June 9, 2022, the Tenant approached the resident shouting "don't move or I'll shoot" and as a result, the resident ran into his unit. By the time police were contacted, the Tenant had already been taken into custody by police as a result of another incident.
4. MA testified that on June 9, 2022, she was advised that an assault had taken place at the residential complex which involved an individual who was not a tenant. The assault was reported to the Landlord by other tenants and the police were involved. The incident took place in the parking lot of the residential complex and the individual was attacked by the Tenant with a hammer-like object.
5. MA tendered correspondence from Nahez Alavi who wrote that on June 9, 2022 he observed a man run up to a motor vehicle that was parked at the residential complex, open the door and hit the female driver with a hammer repeatedly. The female was then dragged out of her motor vehicle and was then able to get assistance from Nahez Alavi.
6. MA also tendered correspondence from Allen Chabot who stated that on June 9, 2022 he was visited by police who inquired about security cameras in the residential complex and that he later observed the Tenant taken into custody in handcuffs by the police.
7. At the hearing, MA tendered a video from their security cameras taken on June 9, 2022 that showed an assault taking place. MA identified the male in the video that attacked the female with a hammer as being the Tenant.
8. The section of the *Residential Tenancies Act, 2006* (the 'Act') that governs this notice is subsection 61(1) which states:

A landlord may give a tenant a notice of termination of the tenancy if the tenant or another occupant of the rental unit commits an illegal act or carries on an illegal trade, business or occupation or permits a person to do so in the rental unit or residential complex.

9. I found the uncontested evidence and submissions by MA regarding the Tenant's utterance of threats and of the assault on June 9, 2022 to be believable and credible. Although there was no evidence that the Tenant has been convicted of the offence, section 75 of the *Act* states that:

The Board may issue an order terminating a tenancy and evicting a tenant in a n application under section 69 based on a notice of termination under section 61 whether or not the tenant or other person has been convicted of an offence relating to an illegal act, trade, business or occupation.

10. Based on the uncontested evidence and submissions of the Landlord's Agent, on a balance of probabilities, I find the Tenant has committed an illegal act in the residential complex.
11. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

12. The Landlord stated that the Tenant resided in the rental unit alone and was not aware of any factors to consider with respect to relief from eviction. 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.
13. This order contains all of the reasons within it and no further reasons will 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 December 17, 2022.
2. The Tenant shall also pay to the Landlord \$23.21 per day for compensation for the use of the unit from December 17, 2022 to the date the Tenant moves out of the unit.
3. The Tenant shall pay to the Landlord \$186.00 for the cost of filing this application.
4. If the Tenant does not pay the Landlord the full amount owing on or before December 17, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 18, 2022 at 4.00% annually on the balance outstanding.
5. If the unit is not vacated on or before December 17, 2022, then starting December 18, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
6. 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 December 18, 2022. The Sheriff is requested to expedite the enforcement of this order.

December 6, 2022
Date Issued

Heather Chapple
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 June 18, 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.