



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

Citation: Houselink & Mainstay Community Housing v Olsen, 2022 ONLTB 12737

Date: 2022-11-30

File Number: LTB-L-023627-22

In the matter of: 40, 814 BROADVIEW AVE
TORONTO ON M4K2P7

Between: Houselink & Mainstay Community Housing Landlord

And

Shane Olsen Tenant

2022 ONLTB 12737 (CanLII)

Houselink & Mainstay Community Housing (the 'Landlord') applied for an order to terminate the tenancy and evict Shane Olsen (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 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 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 17, 2022.

Only the Landlord's Agents Judy Ngo and Florence Akol attended the hearing. The Landlord's Witness Riley Wigmore also attended the hearing and gave evidence.

As of 1:58 p.m., 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. Since the Tenant did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

1. The Landlord's application is based on an N6 and N7 Notice served to the Tenant on April 6, 2022 with a termination date of May 13, 2022. Both notices of termination contain the same pleadings.

2. As of the hearing date, the Tenant was still in possession of the rental unit. The monthly rent is \$497.00 and it is due on the first of every month. There is no rent deposit being held by the Landlord

Landlord's uncontested evidence

3. Riley Wigmore testified as a witness for the Landlord. Mr. Wigmore is a community housing support worker. He testified he is familiar with the Tenant and has worked with him once or twice per month providing the Tenant support.
4. The Landlord's Witness testified that on December 10, 2021, the Tenant was involved in a physical altercation with two other tenants at the residential complex and was arrested as a result of the occurrence.
5. Mr. Wigmore viewed video footage of the incident on a security camera and the Landlord submitted this footage as evidence at the hearing. The video evidence shows the Tenant, along with two other persons, forcefully entering another unit in the residential complex. The video shows there is something in the Tenant's hand although it is not possible from the video to determine what it was. Mr. Wigmore's evidence was the Tenant assaulted two other tenants that were inside the unit. The video evidence also shows one victim tenant exiting the unit after the assault, clearly bleeding from the head.
6. The Landlord submitted a police report detailing the incident. The report explains the Tenant and two other persons forced their way inside this rental unit and demanded money and drugs. One of the occupants inside the unit was attacked and stabbed. The report goes on to explain a cell phone and \$17.00 were also stolen. The Tenant was charged with Robbery With an Offensive Weapon and Aggravated Assault.
7. The Landlord's Agent Florence Akol testified that since the incidents giving rise to the N6 and N7 notices, there has been an additional similar incident. On October 19, 2022, the Tenant chased another tenant in the residential complex down a hall with a metal rod. The Landlord submitted video evidence of this incident and it is clear the Tenant is in pursuit of another tenant in the hallway of the residential complex while carrying what does appear to be a metal rod. Ms. Akol testified the victim tenant in this incident escaped the Tenant with some cuts on his arms.
8. The Landlord submitted the Tenant's violent behaviour has left the residents at the residential complex in fear for their safety.

Analysis

9. The N6 Notice of Termination was served pursuant to section 61(1) of the Act, which states:

A landlord may give a tenant 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 the residential complex.

10. The N7 Notice of Termination was served pursuant to section 66(1) of the Act, which states:

A landlord may give a tenant notice of termination of the tenancy if,

- (a) an act or omission of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant seriously impairs or has seriously impaired the safety of any person; and
- (b) the act or omission occurs in the residential complex.

11. Based on the uncontested evidence before the Board, I am satisfied on a balance of probabilities the Tenant committed and illegal act within the residential complex and also impaired the safety of another person within the residential complex by assaulting and robbing other tenants on December 10, 2021.
12. The Tenant was required to pay the Landlord \$3,071.87 in daily compensation for use and occupation of the rental unit for the period from May 13, 2022 to November 17, 2022.
13. Based on the Monthly rent, the daily compensation is \$16.34. This amount is calculated as follows: \$497.00 x 12, divided by 365 days.
14. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
15. There is no last month's rent deposit.
16. 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.
17. I asked the Landlord if there were aware of any circumstances the Tenant may be experiencing that would make eviction unfair and they were aware of none. The Landlord advised the Board they believed the Tenant was currently incarcerated as a result of the incident that occurred on October 19, 2022. This matter had previously been before the Board on August 9, 2022 and adjourned at the Tenant's request. The Tenant did not attend this hearing or send anyone in their absence to propose an alternative to eviction or provide evidence the Tenant's behaviour would change going forward. I am mindful the event of October 19, 2022, less than one month before this hearing, illustrates the behaviour of the Tenant remains volatile.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated effective December 5, 2022. The Tenant must move out of the rental unit on or before December 5, 2022.
2. If the unit is not vacated on or before December 5, 2022, then starting December 6, 2022, 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 December 6, 2022. The Sheriff is requested to expedite the enforcement of this order.
4. The Tenant shall pay to the Landlord \$3,071.87, which represents compensation for the use of the unit from May 13, 2022 to November 17, 2022.
5. The Tenant shall also pay the Landlord compensation of \$16.34 per day for the use of the unit starting November 18, 2022 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
7. The total amount the Tenant owes the Landlord is \$3,257.87.
8. If the Tenant does not pay the Landlord the full amount owing on or before December 5, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 6, 2022 at 4.00% annually on the balance outstanding.

November 30, 2022

Date Issued

John Cashmore

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 6, 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.