



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

Citation: Cambridge Shelter Corporation v Bannon, 2022 ONLTB 12907

Date: 2022-11-22

File Number: LTB-L-008964-22

In the matter of: 12, 26 SIMCOE ST
CAMBRIDGE ON N1R8P2

Between: Cambridge Shelter Corporation Landlord

And

Kyle Bannon Tenant

Cambridge Shelter Corporation (the 'Landlord') applied (L2 application) for an order to terminate the tenancy and evict Kyle Bannon (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant (N5 notices).

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

This L2 application was heard by videoconference on November 2, 2022.

Only the Landlord's Agent, Jonathon Chapman ('LLA'), attended the hearing. As of 11:50 am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB.

LLA stated that two support workers have been trying to track the Tenant down for the past month, as there has been no sign of the Tenant anywhere. LLA stated that this type of absence happened in the past when the Tenant had been incarcerated for a short period of time; however, at this time the Tenant's whereabouts were not known.

LLA stated that due to the seriousness of the claims under the L2 application, the Landlord wanted to proceed with the LTB hearing on an uncontested basis. Based on LLA's request and since there has been no communication from the Tenant or record of a request to adjourn the hearing, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the order below sets out the termination of the tenancy, to be effective on December 3, 2022. The L2 application filing fee is to be paid by the Tenant to the Landlord and a daily compensation will be ordered to be paid should the Tenant occupy the rental unit beyond December 3, 2022.
2. Based on the monthly rent of \$650.00 (as submitted by the Landlord), the daily compensation is \$21.37. This amount is calculated as follows: \$650.00 x 12 months, divided by 365 days.
3. The Tenant was in possession of the rental unit on the date the application was filed, which was on February 14, 2022.
4. The Landlord served the Tenant with two N5 notices of termination, providing adequate details and dates when the claimed undue behaviours – in the first N5, the Tenant repeatedly urinated in stairwell and refusing to clean up, and in the second N5, the Tenant again repeatedly urinating in the stairwell and over the railing, refusing to clean up and exposing his nakedness in a stairwell common area. The first N5 notice dealt with claimed separate dates between June 2, 2020 and September 15, 2021, whereas the second N5 dealt with new incidents between January 21, 2022 and February 10, 2022.
5. LLA is the Landlord's Tenant Services Coordinator. He described the residential building as being a 3-storey homeless shelter comprising 85 units.
6. Although no details could be provided, LLA testified the Landlord is aware that the Tenant has mental health issues and stated it is believed the Tenant is addicted to smoking meth. LLA submitted that evicting any tenant of the shelter/building is a matter of last resort, as the goal of the Landlord is to help rehabilitate residents to a stable, healthy state so they can then move on with their lives.
7. LLA testified that the first N5 notice was *de facto* voided as the Tenant was incarcerated just at the time the first N5 had been served on the Tenant.
8. LLA then testified concerning the additional times the Tenant has been observed on surveillance camera urinating in the common area stairwell, particularly on January 21, 2022 and on February 7, 2022. As well on February 7, 2022, the Tenant was observed in the common area stairwell to have exposed himself.
9. Since the second N5's issuance, LLA testified that on or about February 10, 2022, the Tenant set a rag on fire and this was particularly concerning because the neighbouring tenant has a 1-year old living with them. LLA stated that the smoke/CO detectors have had to be changed due to the Tenant tampering with or damaging them, and even when LLA had a metal cage installed around the newly installed detectors, the Tenant has tried to tamper with the alarms. Further, LLA testified that on or about March 11, 2022, the Tenant caused a flood in the hallway due to a pair of jeans he used to block the rental unit's toilet with. LLA noted that on that date, it was again found that the unit's smoke detector was tampered with.

10. LLA submitted the Landlord is very concerned with the Tenant's continual behaviours as they pose real health and safety risks to all residents of the shelter/building, including the Tenant. Further, the shelter/building has women living there and LLA stated that they are the more vulnerable residents in respect of the Tenant's continual urination, nakedness/exposure actions and now other actions that relate to the smoke/CO alarms. Consequently, LLA stated that the Landlord believes they really have no other choice but to request that the tenancy be terminated and LLA requested that the termination happen promptly, with the filing fee to be reimbursed.
11. LLA submitted that the Tenant's support workers are working actively to find a group home for the Tenant to move into, where the staff at that kind of home will be in a better position to ensure the Tenant keeps on his medications and to care for the Tenant's more personal needs (especially his addiction). On a final note, LLA stated there may be a public guardian and trustee who might be involved, and the Landlord will work with them as well.
12. Based on the Landlord's submissions, and on a balance of probabilities, I find the Tenant's conduct has substantially interfered with another tenant and/or the Landlord and with the Landlord's lawful right, privilege or interest of the Landlord, in respect of the repeated instances of common area urination and exposure (nakedness). As I accept that the first N5 notice was successfully voided by the Tenant – nothing was provided to contest the Landlord's submissions on this point -- I find the Landlord's basis of claim contained in the second N5 notice to be successful under this L2 application.
13. 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.
14. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
15. I also note for the record that according to the Landlord's submissions, there is no last month's rent deposit.

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 3, 2022.**
2. If the unit is not vacated on or before December 3, 2022, then starting December 4, 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 4, 2022.
4. The Tenant shall pay to the Landlord \$186.00 for the cost of filing the application.
5. If the unit is not vacated on or before December 3, 2022, the Tenant shall also pay the Landlord compensation of \$21.37 per day for the use of the unit starting November 4, 2022 until the date the Tenant moves out of the unit.

6. If the Tenant does not pay the Landlord the full amount owing on or before December 15, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 16, 2022 at 4.00% annually on the balance outstanding.

November 22, 2022
Date Issued

Alex Brkic
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 4, 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.