



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

Citation: Heritage Community Housing Corporation v Dias, 2022 ONLTB 11890

Date: 2022-11-21

File Number: LTB-L-044912-22

In the matter of: 212, 250 HICKORY ST S
WHITBY ON L1N9G8

Between: Heritage Community Housing Corporation Landlord

And

Shane Dias Tenant

Heritage Community Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Shane Dias (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 involving the production of an illegal drug, the trafficking in an illegal drug or the possession of an illegal drug for the purposes of trafficking.

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 3, 2022.

The Landlord's representative, J. Shabes, the Landlord's agent, W. Reid, and the Tenant attended the hearing. The Tenant consulted with Tenant Duty Counsel.

The Landlord called Police Constable M. Berney as a witness.

Determinations:

- As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before November 30, 2022
- The Tenant has committed an illegal act, trade, business or occupation involving the trafficking in an illegal drug and possession of an illegal drug for the purposes of trafficking in the rental unit.
- After surveillance of the residential complex for a number of days, the police arrested the Tenant off the premises on August 5, 2022. The police subsequent executed a search

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warrant on the rental unit and found 48.9 grams of fentanyl, 25.4 grams of crystal meth, 4.1 grams of cocaine, 3 functioning weighing scales, drug packaging material, and a large amount of cash.

4. P.C. Berney testified that the quantity of drugs, the weighing scales, packaging material and the amount of cash support the conclusion that the Tenant possessed the drugs for the purpose of trafficking.
5. The Tenant claimed that the drugs were for his personal use and the stream of visitors coming to his unit reflected friends coming over to play video games.
6. The quantity of drugs found goes beyond personal use. It is pertinent to note that the Tenant's income is low, hence he has the benefit of subsidized housing. The Tenant cannot afford to stockpile large quantities for his personal use and more probable than not the large amount of cash found in the rental unit is attributable to proceeds from trafficking as opposed to personal savings.
7. The illegal act is serious and has the potential of negatively impacting the character of the residential complex. The residents of the complex are seniors, young families, single parent families and other vulnerable persons. The stream of drug users looking for drugs supplied by the Tenant interferes with their reasonable enjoyment of the complex.
8. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
9. Provided the Tenant vacates the rental unit in accordance with this order, the Landlord waives the application fee.
10. 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 not be unfair to postpone the eviction until November 30, 2022 pursuant to subsection 83(1)(b) of the Act.

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 November 30, 2022.
2. If the unit is not vacated on or before November 30, 2022, then starting December 1, 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 1, 2022. The Sherriff is requested to expedite the enforcement of this order.
4. If the Tenant does not vacate the rental unit in accordance with this order, the Tenant shall pay to the Landlord \$186.00 for the cost filing the application.
5. The Tenant shall pay to the Landlord \$4.57 per day for compensation for the use of the unit starting December 1, 2022 to the date the Tenant moves out of the unit.

6. The Landlord or the Tenant shall pay to the other any sum of money that is owed as a result of this order.

November 21, 2022
Date Issued

Egya Sangmuah
Vice Chair, 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 1, 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.