



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

**Citation:** Greater Sudbury Housing Corporation v Mead, 2022 ONLTB 11099

**Date:** 2022-11-17

**File Number:** LTB-L-012638-22

**In the matter of:** 134, 744 BRUCE AVE  
SUDBURY ON P3C5H5

**Between:** Greater Sudbury Housing Corporation Landlord

**And**

Paula Mead Tenant

Greater Sudbury Housing Corporation (the 'Landlord') applied for an order to terminate the tenancy and evict Paula Mead (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 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 September 14, 2022. Only the Landlord's Representative Melissa Chicione attended the hearing.

As of 9:30 a.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. As a result, 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 tenancy is terminated on November 22, 2022.
2. The Tenant was in possession of the rental unit on the date the application was filed.

3. The Tenant resides in a three-bedroom townhouse unit in a family complex comprised of 150 rental units, the monthly rent is \$1,317.00.

#### N6 Notice of Termination

4. On March 1, 2022, the Landlord gave the Tenant an N6 notice of termination deemed served on the same date. The notice of termination contains the following allegations:
  - On February 25, 2022, the Housing Office was notified that the Greater Sudbury Police Service (GSPS) and members of their Integrated Crime Section, supported by the Emergency Response Unit, attended the unit as they received information that an individual was being held against their will and there were firearms inside the residence. After negotiations by the Crisis Negotiators, all individuals inside exited the unit and were taken into police custody.
  - Detectives in the Major Crime Section took over the investigation and Search Warrants for the unit were granted. As a result of the investigation, Officers seized a quantity of Fentanyl and Methamphetamine, as well as a drug scale, brass knuckles and two firearms with ammunition.
  - Three individuals, including yourself (Tenant) have been charged under the Criminal Code of Canada and the Criminal Code and Controlled Drugs and Substance Act. Since the incident on February 25, 2022, GSPS has confirmed that you have been charged with Forcible Confinement, Possession of Schedule 1 Substance, Possession of a Schedule 1 Substance for the Purpose of Trafficking x2 and Unauthorized Possession of a Firearm.
  - In addition, your (Tenant's) guests' have been charged with Forcible Confinement, Unauthorized Possession of a Firearm x2, Possession of a Firearm and Ammunition contrary to Prohibition x3, Knowledge of Unauthorized possession of a Firearm x2, Possession of a Weapon for a Dangerous Purpose, pointing a Firearm, Assault with a Weapon, Possession of a Schedule 1 Substance, and Administer Noxious Substance with Intent to Endanger Life or Cause Bodily Harm.
  - As per the lease agreement entered between the parties, "The Tenant, other Occupants of the Rental Unit, or persons who are permitted in the Residential Complex or the Rental Unit by the Tenant, shall not make, permit or allow any improper noise to be made in or about the Residential Complex, or the Rental Unit or do anything, which may disturb or interfere with the rights, privileges or interests of the Landlord or other Tenants."
  - "The tenant shall not use or permit the Rental Unit to be used for any illegal purpose."
5. Subsection 61(1) of the *Residential Tenancies Act* (the "Act") provides as follows:

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 permits a person to do so in the rental unit or the residential complex.

6. The drug offences listed in subsection 61(2) include:

- i. the production of an illegal drug;
- ii. trafficking in an illegal drug;
- iii. the possession of an illegal drug for the purposes of trafficking.

7. Subsection 61(3) provides the following definitions: in this section,

"illegal drug" means a controlled substance or precursor as those terms are defined in the Controlled Drugs and Substances Act (Canada);

"possession" has the same meaning as in the Controlled Drugs and Substances Act (CDSA);

"production" means, with respect to an illegal drug, to produce the drug within the meaning of the Controlled Drugs and Substances Act (Canada);

"trafficking" means, with respect to an illegal drug, to traffic in the drug within the meaning of the Controlled Drugs and Substances Act (Canada).

8. The Controlled Drugs and Substances Act the ("CDSA") states that a "controlled substance" refers to those substances included in Schedule I, II, III, IV or V in the CDSA, which include cocaine and opiates.

9. Subsection 61(3) of the Act states that possession has the same meaning as in the CDSA. The CDSA states that possession means possession within the meaning/

10. Subsection 61(3) of the Act states that trafficking in an illegal drug means to traffic within the meaning of the CDSA. The CDSA states that "traffic" means, in respect of a substance in Schedule I to IV, unless they are done under the authority of the regulationst o the CDSA, to:

- sell, administer, give, transfer, transport, send or deliver the substance,
- to sell an authorization to obtain the substance, or
- to offer to do either of the above

11. The meaning of "possession for the purposes of trafficking" in subsection 61(2)(iii) is not defined in the RTA or the CDSA. Subsection 5(2) of the CDSA states that "No person shall, for the purpose of trafficking, possess a substance included in Schedule I, II, III or IV."

12. The term "illegal" is not defined in the Act but it is well-established that it includes a serious violation of a federal, provincial or municipal law.
13. Subsection 61(2)(a) of the Act provides a 10-day notice of termination period when the illegal activity involves the production of an illegal drug, trafficking in an illegal drug or possession of an illegal drug for the purpose of trafficking.
14. Furthermore, section 75 of the Act permits the Board to evict a tenant for an illegal act whether or not the tenant has been convicted of an offence relating to the illegal act.
15. Finally, section 84 of the Act states that the Board shall request that the Sheriff expedite the enforcement of the eviction order where the eviction involves an illegal act.
16. Based on the uncontested evidence before me, on a balance of probabilities the Tenant, or an 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.

#### N7 Notice of Termination

17. On March 1, 2022, the Landlord gave the Tenant an N7 notice of termination deemed served on the same date. The notice of termination contains the same allegations as contained in the N6 notice and as outlined above, in addition to the following:
  - Your current household is made up of yourself and your children, aged 4, 6 and 8. The events that took place on February 25, 2022, impacted the safety of the residential complex as well as the members of your household as crisis negotiators had to be dispatched to the unit in addition to two other GSPS teams who had to surround your unit, with their guns drawn. GSPS also had to release a media statement advising other residents and community members to avoid the area of 744 Bruce Ave. In addition, this incident also impacted the safety of the residential complex due to the complex nature of the items recovered from the unit. Please be advised that this behavior is unacceptable and will not be tolerated and we are seeking immediate termination of your tenancy.
18. Submitted into evidence was the Greater Sudbury Police media statement released to inform residents of the following:
  - The Tenant and guests of the rental unit have committed an illegal act, trade, business or occupation involving the trafficking in an illegal drug or possession of an illegal drug

for the purposes of trafficking in the rental unit. As a result of the search executed on February 25, 2022 at 744 Bruce Avenue, Sudbury the rental unit complex in Relation to Forcible Confinement Incident the Tenant was charged under the Criminal Code of Canada and the CDSA for Forcible Confinement • Possession of Schedule 1 Substance • Possession of a Schedule 1 Substance for the Purpose of Trafficking x2 • Unauthorized Possession of a Firearm.

19. With respect to the charges surrounding forcible confinement, the police indicated “Due to the serious nature of this incident, no details related to the victim’s identity will be provided.”

### Serious Impairment of Safety

20. The Tenant or another occupant of the rental unit or a person permitted in the residential complex by the Tenant has seriously impaired the safety of the children in the residential unit and all residents in the complex.
21. With respect to the events of February 25, 2022, the Landlord’s Representative submitted that the Landlord received a number of calls from tenants within the complex, they were afraid because the police on site were in possession of guns and the rental unit they were investigating was known to be a drug unit.
22. While the police raid was being conducted, the tenants in the complex were directed to take shelter. Being a family complex, there were a number of children playing outside.
23. It was submitted that since being released from custody the Tenant has returned to rental unit and is allegedly involved with same illegal activities, and while the Tenant has three of her young children listed on the lease, they currently do not reside with her.
24. Based on the uncontested evidence before me, on a balance of probabilities, 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.

### Daily compensation

25. The Tenant was required to pay the Landlord \$8,053.55 in daily compensation for use and occupation of the rental unit for the period from March 3, 2022 to September 14, 2022.
26. Based on the Monthly rent, the daily compensation is \$43.30. This amount is calculated as follows: \$1,317.00 x 12, divided by 365 days.
27. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.

28. There is no last month's rent deposit.

29. 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. The Tenant failed to attend the hearing to provide evidence of their circumstances, given the gravity of case before me, expedited enforcement is warranted. The Landlord's Representative submitted that they are not aware of any circumstances that would cause me to delay or deny the eviction.

30. This order contains all of the reasons for the decision within it. No further reasons shall 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 November 22, 2022.
2. If the unit is not vacated on or before November 22, 2022, then starting November 23, 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 November 23, 2022. The Sheriff is requested to expedite the enforcement of this order.
4. The Tenant shall pay to the Landlord \$8,053.55, which represents compensation for the use of the unit from March 3, 2022 to September 14, 2022.
5. The Tenant shall also pay the Landlord compensation of \$43.30 per day for the use of the unit starting September 15, 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 \$8,239.55.
8. If the Tenant does not pay the Landlord the full amount owing on or before November 22, 2022, the Tenant will start to owe interest. This will be simple interest calculated from November 23, 2022 at 4.00% annually on the balance outstanding.

**November 17, 2022**  
**Date Issued**

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 Alicia Johnson  
 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 May 9, 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.