



Order under Section 21.2 of the Statutory Powers Procedure Act and the Residential Tenancies Act, 2006

Citation: SIMCOE COUNTY HOUSING CORPORATION v Cleaveley, ONLTB 0

Date:

File Number: LTB-L-002193-22-RV

In the matter of: D25, 246 OXFORD ST
ORILLIA ON L3V1H7

Between: SIMCOE COUNTY HOUSING CORPORATION Landlord

And

Ashley Cleaveley Tenant

Review Order

This application was resolved by order LTB-L-002193-22 issued on September 6, 2022.

On October 5, 2022, the Landlord requested a review of the order.

The request to review was heard on October 26, 2022. Only the Landlord's representative Kyle Schertzer attended the hearing. the Tenant did not attend the initial hearing held on August 24, 2022, nor did the Tenant attend the review hearing before the conclusion of the hearings a 4:00pm.

Determinations:

1. The Landlord was provided with a notice of hearing that provided the wrong date for the hearing held on August 24, 2022. The Landlord contacted the Board and the notice of hearing that was provided gave a date which had already passed. I find the Landlord was not reasonably able to participate at the hearing on August 24, 2022. The request to review is granted.
2. The Landlord served two N5 notices to terminate the tenancy on the Tenant. The Landlord alleges the Tenant continues to make excessive noise, play loud music and yells, all of which substantially interfere with the reasonable enjoyment of other residents in the residential complex.
3. The Tenant voided the 1st N5 notice by not engaging in the alleged activities for a seven-day period. However, shortly after the voiding period expired the activities began again.

4. The Landlord called as a witness the Tenant's next-door neighbour, Bruce Barber, who testified that he has endured the noise, day and night, as well as pounding on the walls and floors for more than two years now, making living in his unit intolerable. When the witness he has the chance, he stays elsewhere to avoid the disturbances.
5. The Landlord also submits that the tenant who was living in the rental unit on the other side from the Tenant's unit, has been transferred because of these issues and that the unit has not been rented, nor will it be rented to another tenant, until this issue is resolved.
6. Based on the uncontested testimony and submissions made at the hearing, I find the Tenant has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated, as of November 11, 2022. The Tenant must move out of the rental unit on or before November 11, 2022.
2. If the unit is not vacated on or before November 11, 2022, then starting November 12, 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 12, 2022.

Date Issued
November 1, 2022

Greg Joy
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 expires on March 12, 2022 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.