



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

Citation: Sharma v Spisar, 2022 ONLTB 10428

Date: 2022-11-01

File Number: LTB-L-037053-22

In the matter of: Basement, 270 ELBERN MARKELL DR
BRAMPTON ON L6X3C2

Between: Dinesh Sharma, Kusum Sharma

Landlords

And

Jeffrey Spisar

Tenant

Dinesh Sharma (DS), Kusum Sharma (the 'Landlords') applied for an order to terminate the tenancy and evict Jeffrey Spisar (the 'Tenant') because:

- the Tenant, another occupant of the rental unit or someone the Tenant permitted in the building has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord in a building that has three or fewer residential units and the Landlord resides in the building.

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

The Landlord also claimed charges related to NSF cheques.

This application was heard by videoconference on October 26, 2022.

Only the Landlords and the Landlords' legal representative, Jasleen Narula, attended the hearing. Rumani Sharma attended the hearing as support for the Landlord Kusum Sharma.

As of 2:32 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. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy shall be terminated. The Landlords have also proven the claim for compensation for charges incurred for NSF cheques and for use of the rental unit after the termination date.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N7 Notice of Termination

On May 5, 2022, the Landlords gave the Tenant an N7 notice of termination. The termination date set out in the Notice of Termination is June 30, 2022. The notice of termination contains the following allegations:

- On May 5, 2022 and daily for the last 6 months prior to May 5, 2022, generally after 7 p.m., the Tenant has engaged in disruptive behaviour such as screaming, using foul language, and banging on the ceiling;
 - The Tenant has been smoking marijuana inside the residential complex despite having signed a non-smoking clause; the smoke permeates throughout the house.
3. The building has three or fewer residential units.
 4. The Landlords live in the building.
 5. The Landlord DS gave evidence with respect to the allegations set out on the Notice of Termination. The Landlord presented video evidence of the Tenant's disturbing conduct.
 6. As a result of the Tenant's conduct the Landlords' family are unable to work or study in their own home. The Tenant's disturbing conduct and the marijuana smoke are affecting their health.
 7. Based on the uncontested evidence before me, I am satisfied that the Tenant's conduct has substantially interfered with the Landlords' reasonable enjoyment of the building.

NSF charges:

8. The Landlords are entitled to \$60.00 to reimburse the Landlords for administration charges and \$21.00 for bank fees the Landlords incurred as a result of 3 cheques given by or on behalf of the Tenant which were returned NSF.

Daily compensation:

9. Based on the monthly rent, the daily compensation is \$46.03. This amount is calculated as follows: \$1,400.00 x 12, divided by 365 days.
10. The Tenant has not paid rent since June 30, 2022.
11. The Tenant owes the Landlords daily compensation from July 1, 2022 until the day the Tenant moves out of the rental unit. The daily compensation from July 1, 2022 to October 26, 2022 (the day of the hearing) is \$5,431.54.
12. The Landlords collected a rent deposit of \$1,400.00 from the Tenant and this deposit is still being held by the Landlords. Interest on the rent deposit, in the amount of \$23.61 is owing to the Tenant for the period from to June 1, 2021 to October 26, 2022.
13. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.
14. The Landlords incurred costs of \$186.00 for filing the application and are entitled to reimbursement of those costs.

15. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), including the fact that the Tenant's conduct has not improved since the service of the Notice of Termination, and find that it would be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated. The Tenant must move out of the rental unit on or before **November 6, 2022**.
2. If the unit is not vacated on or before November 6, 2022, then starting November 7, 2022, the Landlords 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 Landlords on or after November 7, 2022. **The Sherriff is requested to expedite the enforcement of this order.**
4. The Tenant shall pay the Landlords \$4,007.93. This amount represents the daily compensation from July 1, 2022 to October 26, 2022 (\$5,431.54) minus the last month's rent deposit (\$1,400.00) minus the interest on the last month's rent deposit (\$23.61).
5. The Tenant shall also pay to the Landlords \$81.00, for bank charges and related administration charge for cheques given by or on behalf of the Tenant which were returned NSF.
6. The Tenant shall also pay \$186.00 to the Landlords for the cost of filing the application.
7. The total amount the Tenant owes the Landlords is **\$4,274.93**.
8. If the Tenant does not pay the Landlords the full amount owing on or before November 30, 2022, the Tenant will start to owe interest. This will be simple interest calculated from December 1, 2022 at 4.00% annually on the balance outstanding.
9. The Tenant shall also pay the Landlords \$46.03 per day for compensation for the use of the unit from October 27, 2022 to the date the Tenant moves out of the unit.

November 1, 2022

Date Issued

Jana Rozehnal

Member, Landlord and Tenant Board

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 May 7, 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.