



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

Citation: London & Middlesex Community Housing v Knight, 2022 ONLTB 8474

Date: 2022-10-24

File Number: LTB-L-005461-22

In the matter of: 614, 580 DUNDAS ST
LONDON ON N6B1W9

Between: London & Middlesex Community Housing Landlord

And

Tyler Knight Tenant

London & Middlesex Community Housing (the 'Landlord') applied for an order to terminate the tenancy and evict Tyler Knight (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.

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 October 3, 2022.

Only the Landlord's Legal Representative Cameron Burgess attended the hearing. The Landlord called Joshua Drewitt as a witness.

As of 1:16 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. Since the Tenant did not attend and the Landlord was prepared to proceed, the matter proceeded by way of an uncontested hearing pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy the claim for compensation in the application. Therefore, the tenancy is terminated effective November 4, 2022.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On January 5, 2022, the Landlord mailed the Tenant an N5 Notice of Termination. The Notice was deemed served on January 10, 2022 with a 7 day voiding period lasting until January 17, 2022. The N5 Notice contains the following allegations:

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- On December 21, 2021 at 11:00 a.m. the rental unit was inspected by community support workers with proper notice and the following concerns were noted:
 - The unit was cluttered with items and garbage in piles on the floor throughout the rental unit making it difficult to access all the areas of the rental unit or to have clear egress from the bedroom area to the door in case of an emergency.
 - Old food had been left on the kitchen counters creating a pest control issue.
 - The bathroom was in a deplorable condition with the sink backed up with brown water and there was evidence the toilet was not working and had overflowed. The Tenant reported these issues to the group conducting the inspection and had not previously reported by the Tenant.
 - There was a pile of garbage bags in the corner of the bed/living area and the wall in this area appeared damaged.
 - The Tenant was notified at this time the unit needed to be cleaned up to allow maintenance workers to repair the areas of concern. The Tenant was verbally aggressive while the inspection was taking place.
4. The Landlord called a witness, Joshua Drewitt. He is a community support worker for tenants. He testified that he was present for the inspection conducted of the rental unit conducted on December 21, 2021. His evidence was there were health and fire safety concerns given the condition of the rental unit. His evidence corresponded with the allegations on the N5 Notice of Termination.
 5. Mr. Drewitt testified he reattended the rental unit on January 19, 2022 and June 17, 2022 in order to conduct follow up inspections. His evidence was that on each occasion, the condition of the rental unit was the same or similar as it had been during the inspection on December 21, 2021. He described an environment of extreme clutter, garbage, old food and wet clothing in the bathtub. Again, he noted health and fire safety concerns as there were no clear path throughout the rental unit. He described the rental unit as one of the worst he had seen.
 6. The Landlord's gave evidence of another inspection of the rental unit conducted on September 29, 2022. His evidence was the unit remained in much the same state as previous inspections and remained a health and safety concern.
 7. The Landlord submitted photographs taken during the four inspections that were conducted of the rental unit. The conditions within the rental unit are clearly deplorable and remain virtually unchanged in each subsequent inspection. These photos depict a shocking scene not effectively captured by the words of the witness.
 8. Based on the Landlord's uncontested evidence, I am satisfied on a balance of probabilities that the Tenant has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

- The Tenant did not stop the conduct or activity or correct the omission within seven days after receiving the N5 notice of termination. The evidence of the Landlord shows that the state of this rental unit has remained unchanged since December 21, 2021 up until four days before the hearing. Therefore, the Tenant did not void the N5 notice of termination in accordance with s.64(3) of the *Residential Tenancies Act, 2006* (Act).

Daily Compensation

- The Tenant was required to pay the Landlord \$4,718.01 in daily compensation for use and occupation of the rental unit for the period from to October 3, 2022.
- Based on the Monthly rent, the daily compensation is \$19.50. This amount is calculated as follows: \$593.00 x 12, divided by 365 days.
- The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
- The Landlord collected a rent deposit of \$115.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$4.61 is owing to the Tenant for the period from April 3, 2019 to October 3, 2022.
- 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.

Section 83 Considerations

- 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 Landlord's witness gave evidence the Tenant was offered support and assistance many times since the initial inspection and refused in each case. The Tenant did not attend the hearing to present any evidence or submissions in support of granting relief from eviction.

It is ordered that:

- The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before November 4, 2022.
- If the unit is not vacated on or before November 4, 2022, then starting November 5, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
- 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 5, 2022.
- The Tenant shall pay to the Landlord \$4,598.40, which represents compensation for the use of the unit from to October 3, 2022, less the rent deposit and interest the Landlord owes on the rent deposit.

5. The Tenant shall also pay the Landlord compensation of \$19.50 per day for the use of the unit starting October 4, 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 \$4,784.40.
8. If the Tenant does not pay the Landlord the full amount owing on or before November 4, 2022, the Tenant will start to owe interest. This will be simple interest calculated from November 5, 2022 at 4.00% annually on the balance outstanding.

October 24, 2022
Date Issued

John Cashmore
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 5, 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.