

Order under Section 69
Residential Tenancies Act, 2006

File Number: TEL-99002-19

In the matter of: BASEMENT, 17 SAVARIN STREET
SCARBOROUGH ON M1J1Z7

I hereby certify this is a true copy of the Order
(Name of Document)
BD
(Bonnie Dunnett)

Between: Michael Chao

(Signature of Staff Member)

Landlord

and

MAY 27 2019

LANDLORD AND TENANT BOARD

Jennifer McIntyre

Tenant

Michael Chao (the 'Landlord') applied for an order to terminate the tenancy and evict Jennifer McIntyre (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes. **This is an L1 application.**

The Landlord also applied for an order to terminate the tenancy and evict 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. **This is an L2 application.**

This application was heard in Toronto on April 17, 2019.

Only the Landlord's wife, Alena Avdiukhova, attended the hearing.

Determinations:

APPLICATION FOR NON-PAYMENT OF RENT

1. The Tenant has not paid the total rent the Tenant was required to pay for the period from January 1, 2019 to April 30, 2019. Because of the arrears, the Landlord served a Notice of Termination effective January 31, 2019.
2. The Landlord collected a rent deposit of \$1,700.00 from the Tenant and this deposit is still being held by the Landlord.
3. Interest on the rent deposit is owing to the Tenant for the period from December 7, 2018 to January 31, 2019.

APPLICATION FOR SUBSTANTIAL INTERFERENCE

4. The Landlord's was also witness to the issues listed in the Notice of termination for substantial inference of reasonable enjoyment.

5. The Landlord served the Tenant with a Notice of Termination under section 64 of the *Residential Tenancies Act, 2006* (the 'Act') ('First N5') on December 31, 2018, by registered mail.
6. This First N5 indicates the Tenant has seven days from the date receipt in which to remedy the behaviours set out in the notice. Since the First N5 was served by mail on December 31, 2018 and subsection 191(3) deems service on the fifth day after mailing the seven day remedy period is January 5 to 12, 2019.
7. The Landlord did not file with the Board on the First N5, but instead, served the Tenant with a Notice of Termination under section 68 ('Second N5') for further contravention.
8. The details in the Second N5 include events that happened during the seven day remedy period above, and as I explained at the hearing, these events cannot be included and will not be addressed.
9. The events that are relevant to the claim of further contravention are as follows:
10. On January 13, 2019, from midnight to 7 am the Tenant and/or her guests were making excessive noise in the rental unit, which is located in the basement of the Landlord's house. The Landlord's wife was unable to sleep during this time.
11. On January 19, 2019, from 5 am to 5:30 am there was a loud argument, noise and a child screaming in the rental unit. One of the children in the rental unit asked the Landlord's wife to call the police. She did. The police arrived and dealt with the situation.
12. The Landlord's wife says she has sent text messages to the Tenant before regarding the noise issues, but the Tenant just ignores the messages.
13. Given the uncontested evidence presented by the Landlord's wife, I find the Tenant, an occupant, or a guest of the Tenant has substantially interfered with the Landlord's reasonable enjoyment of the residential complex.
14. 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.

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 June 7, 2019.
2. The Tenant shall pay to the Landlord \$8,178.55*, which represents the amount of rent owing and compensation up to May 27, 2019, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$55.89 per day for compensation for the use of the unit starting May 28, 2019 to the date the Tenant moves out of the unit.

4. The Tenant shall also pay to the Landlord \$190.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing* on or before June 7, 2019, the Tenant will start to owe interest. This will be simple interest calculated from June 8, 2019 at 3.00% annually on the balance outstanding.
6. If the unit is not vacated on or before June 7, 2019, then starting June 8, 2019, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 June 8, 2019.

May 27, 2019
Date Issued



Shelby Whittick
Member, Landlord and Tenant Board

Toronto East-RO
2275 Midland Avenue, Unit 2
Toronto ON M1P3E7

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 December 8, 2019 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.

* Refer to section A on the attached Summary of Calculations.

**Schedule 1
SUMMARY OF CALCULATIONS**

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A. Amount the Tenant must pay:

Reasons for amount owing	Period	Amount
Arrears: (up to the termination date in the Notice of Termination)	January 1, 2019 to January 31, 2019	\$3,400.00
Plus compensation: (from the day after the termination date in the Notice to the date of the order)	February 1, 2019 to May 27, 2019	\$6,483.24
Less the rent deposit:		-\$1,700.00
Less the interest owing on the rent deposit:	December 7, 2018 to January 31, 2019	-\$4.69
Amount owing to the Landlord on the order date: (total of previous boxes)		\$8,178.55
Additional costs the Tenant must pay to the Landlord:		\$190.00
Plus daily compensation owing for each day of occupation starting May 28, 2019:		\$55.89 (per day)
Total the Tenant must pay the Landlord:		\$8,368.55, + \$55.89 per day starting May 28, 2019