

Order under Sections 69 and 89
Residential Tenancies Act, 2006

File Number: CEL-89158-19

In the matter of: BASEMENT, 10 BURGBY AVENUE
BRAMPTON ON L6X 2G8

Between: Min Du
Saidan Ying

Landlords

and

Bankson Bloomfield
Krysta Mendonca

Tenants



Min Du and Saidan Ying (the 'Landlords') applied for an order to terminate the tenancy and evict Krysta Mendonca and Bankson Bloomfield (the 'Tenants') because the Tenants did not pay the rent that the Tenants owe (the 'L1 Application').

The Landlords also applied for an order to terminate the tenancy and evict the Tenants because they, another occupant of the rental unit or someone they permitted in the residential complex have wilfully or negligently caused undue damage to the premises; wilfully caused undue damage to the premises and used the rental unit or the residential complex in a manner that is inconsistent with use as a residential premises and that has caused or can be expected to cause significant damage; committed an illegal act or have 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; and seriously impaired the safety of any person. The Landlords also applied for an order requiring the Tenants to pay compensation for damage to the rental unit or residential complex and claimed compensation for each day the Tenants remained in the unit after the termination date (the 'L2 Application').

These applications were heard in Mississauga on October 21, 2019. Only the Landlords attended the hearing. As of 10:04 a.m., the Tenants were not present or represented at the hearing although properly served with notice of this hearing by the Board.

Determinations and Reasons:

The L1 Application

1. The Tenants have not paid the total rent they were required to pay for the period from June 1, 2019 to September 30, 2019. Because of the arrears, the Landlords served a Notice of Termination effective August 31, 2019.

2. The Tenants vacated the rental unit on September 15, 2019. The Tenants were in possession of the rental unit on the date the application was filed.
3. The monthly rent is \$1,562.00, effective September 1, 2019.
4. The Landlord is not holding a last month's rent deposit.
5. The Tenants have made no payments since the application was filed.

The L2 Application

6. As the Tenants vacated the rental unit, the issue of termination of the tenancy is now moot.
7. Separate and apart from the application for termination, the Landlords requested an order for compensation with respect to undue damage to the rental unit. At the hearing, they testified that the Tenants have damaged the following items in the premises:
 - a. The bathroom door was broken.
 - b. The bedroom door was broken.
 - c. A sliding glass door was broken and required replacement.
 - d. A sliding glass closet door was broken and required replacement.
 - e. Holes in the walls throughout the rental unit required repairs.
 - f. Flooring in the hallways required replacement.
 - g. A range on the stove required replacement.
8. As the above damage exceeds normal wear and tear, I find that the Tenants, an occupant of the rental unit or a person permitted in the residential complex by the Tenants have wilfully caused undue damage to the rental unit.
9. At the hearing, the Landlords submitted receipts and estimates substantiating the total cost for these repairs at \$3,750.00. This figure represents a reduction from the Landlords' original estimate of \$7,700.00 in the L2 Application.
10. At the hearing, the Landlords also requested compensation for several expenses not mentioned in the application. Specifically, they requested compensation for a garbage collection fee and the cost of obtaining police records. As neither of these items relate to the cost of repairing or replacing items damaged by the Tenants, these requests are denied.
11. The Landlords also requested compensation for the cost to replace the locking mechanism to the rental unit and to change the keys to that lock.

12. The Landlords framed this issue as wilful or negligent damage. However, the *Residential Tenancies Act, 2006* (the 'Act') specifically addresses unauthorized alterations to a locking system of the rented premises under section 35 of the Act apart from other provisions. Subsections 35(2) and (3) of the Act set out the procedure and remedies available to the Landlord in relation to a breach of subsection 35(1) of the Act:

35. (2) If a tenant alters a locking system, contrary to subsection (1), the landlord may apply to the Board for an order determining that the tenant has altered the locking system on a door giving entry to the rental unit or the residential complex or caused the locking system to be altered during the tenant's occupancy of the rental unit without the consent of the landlord.

(3) If the Board in an application under subsection (2) determines that a tenant has altered the locking system or caused it to be altered, the Board may order that the tenant provide the landlord with keys or pay the landlord the reasonable out-of-pocket expenses necessary to change the locking system.

13. The Landlords did not file the required L8 Application under subsection 35(2) of the Act with respect to the Tenants' apparent alteration of the locking system. I find that had the legislature intended that unauthorized alteration of a locking system to fall under the subject matter of section 62 of the Act, they would not have drafted section 35 to address precisely this very situation. As a result, their request for compensation for these expenses is also denied.

14. This order contains all of the reasons in this matter and no further reasons will issue.

It is ordered that:

The L1 Application


1. The tenancy is terminated as of September 15, 2019, the date the Tenants gave vacant possession of the rental unit to the Landlords.
2. The Tenants shall pay to the Landlords \$4,494.25,* which represents the amount of rent owing and compensation up to September 15, 2019.
3. The Tenants shall also pay to the Landlords \$190.00 for the cost of filing the application.
4. If the Tenants do not pay the Landlords the full amount owing* on or before November 3, 2019, the Tenants will start to owe interest. This will be simple interest calculated from November 4, 2019 at 3.00% annually on the balance outstanding.

The L2 Application

5. The Tenants shall pay to the Landlords \$3,750.00, which represents the reasonable costs of repairing the damage and replacing the damaged property.

6. If the Tenants do not pay the Landlord the full amount owing on or before November 3, 2019, the Tenants will start to owe interest. This will be simple interest calculated from November 4, 2019 at 3.00% annually on the balance outstanding.

October 23, 2019
Date Issued


Kevin Lundy
Member, Landlord and Tenant Board

Central-RO
3 Robert Speck Pkwy, 5th Floor
Mississauga ON L4Z 2G5

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

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

**Schedule 1
SUMMARY OF CALCULATIONS**

File Number: CEL-89158-19

A. Amount the Tenants must pay as the tenancy is terminated:

Reasons for amount owing	Period	Amount
Arrears:	July 1, 2019 to September 1, 2019	\$3,775.35
Plus compensation:	September 2, 2019 to September 15, 2019	\$718.90
Amount owing to the Landlords on the order date:(total of previous boxes)		\$4,494.25
Additional costs the Tenants must pay to the Landlords:		\$190.00
Total the Tenants must pay the Landlords as the tenancy is terminated:		\$4,684.25