



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

Citation: KPR Investments Inc v Marshall, 2024 ONLTB 50386

Date: 2024-07-10

File Number: LTB-L-080245-23

In the matter of: 8, 5 FAIRVIEW AVE
SUDBURY ON P3B2M9

Between: KPR Investments Inc

And

Tyler James Marshall
Stephanie Dumas

I hereby certify this is a
true copy of an Order dated

JUL 10 2024

Landlord and Tenant Board

Landlord

Tenant

When the capitalized word “Landlord” is used in this order, it refers to all persons or companies identified as a Landlord at the top of the order. When the capitalized word “Tenant” is used in this order, it refers to all persons identified as a Tenant at the top of the order.

KPR Investments Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Tyler James Marshall and Stephanie Dumas (the 'Tenant') because the Tenant has been persistently late in paying the Tenant's rent. 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 May 22, 2024. The Landlord's agents M. Sugrim, S.Ouimette and the Landlord's representative M. Robinson attended the hearing. 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.

It is determined that:

1. As explained below, the Landlord has not proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the application is dismissed.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N8 Notice of Termination

3. On October 11, 2023, the Landlord gave the Tenant an N8 notice of termination, deemed served on October 16, 2023 by regular mail.
4. The notice of termination contained only the following as grounds for termination of the tenancy:


“As of today October 11, 2023 you are behind in rent of \$5624.86. Upon many months of having N4's and reminders sent out, you have failed to make an attempt to pay the arrears. We feel it would be better for us to terminate your tenancy, and for you to vacate the premises.”

5. Despite the instructions on the N8 form above the explanation box (Details About the Reasons for this Notice), the Landlord included no specific dates of any actual late payments or indicated when or if the Tenant paid rent. The Landlord also opted not to attach a ledger to the notice that could have offered details with respect to the number and frequency of late payments or the specific degree of lateness. The information provided in the N8 Notice describes only the arrears but offers no details with respect to the alleged late payments themselves. Without this information, it is not possible to conclude on the face of the notice that the Tenant in fact failed to pay the rent on the dates that it became due.
6. I find that the N8 Notice is unduly vague as it lacks necessary references to specific details including dates and times for the Tenant's payments or lack thereof. While the Landlord's agents and representative lead direct evidence of the Tenant's alleged late payment at the hearing, the problem lies in the actual text of the originating document – the N8 Notice – which is the document against which the Tenant must craft their answer. I find that the vague allegations contained in the N8 Notice do not meet the requirements for a notice of termination set by the Act in section 43. If the Tenant is not given, with some precision, the details of what it they are alleged to have done, the ability to respond is compromised, which in turn undermines the fairness of the proceeding.
7. According to the Ontario Divisional Court's decisions in both *Kuzyk v. S.K. Properties* and *Ball v. Metro Capital Property and Lockhurst*, if a notice of termination issued by a landlord is confusing to the degree that a reasonable person could not understand the precise actions or omissions that caused the landlord to pursue eviction, a Member ought to find it defective. Specifically, the Court in *Ball* stated that “particulars should include dates and times of the alleged offensive conduct, together with a detailed description of the alleged conduct engaged in by the tenant.”
8. A defect in a notice of termination cannot be cured through direct evidence or clarifications offered at the subsequent merits hearing.
9. In the present case, I find that the N8 Notice is defective as it is vague and devoid of necessary details with respect to the allegations that provide the basis for the application. The Landlord may not rely on this notice to terminate the tenancy.

It is ordered that:

1. The Landlord's application is dismissed.

July 10, 2024
Date Issued


 Donna Adams
 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.