



Order under Section 100
Residential Tenancies Act, 2006

File Number: SOL-11152-19

In the matter of: 73 OAKES CRESCENT
GUELPH ON N1E 0J6

Between: Olatunbosun Funmilato Ige

Landlord

and

Mark Kachurowski,
Valerie Kachurowski,
Walter Kachurowski

Tenants

Pauline Barbara Kelly,
Alyssa Susan Fudge

Unauthorized
Occupants

Olatunbosun Funmilato Ige (the 'Landlord') applied for an order to terminate the tenancy of Mark Kachurowski, Valerie Kachurowski and Walter Kachurowski (the 'Tenants'), because the Landlord did not consent to the assignment or sublet of the tenancy and for compensation for the use of the rental unit (the 'A2 Application').

This application was heard in Guelph on March 2, 2020. The Landlord's Legal Representative, Teresa Baykara and the Occupant, Pauline Barbara Kelly ('P.B.K.'), attended the hearing. P.B.K. spoke with Duty Counsel prior to the hearing.

Preliminary Issue:

1. This order was originally drafted on March 23, 2020. However, on March 17, 2020, as a result of the COVID-19 pandemic, the Landlord and Tenant Board (the 'Board') suspended the issuance of all orders involving termination of a tenancy. As the Ontario government has indicated an intention to lift this suspension effective July 31, 2020, following order may now be issued.

Determinations and Reasons:

1. The Landlord entered into one year tenancy agreement with the Tenants on February 8, 2019; the lease ran from February 4, 2019 to February 3, 2020. The tenancy agreement lists the Tenants as the only occupants of the rental unit. The Tenants moved into the rental unit on or about February 11, 2019. They paid the \$2,500.00 monthly rent in cash every month until November, 2019.

2. The Landlord inspected the rental unit for damage every three months. When he attended at the unit on November 19, 2019, he found that the Tenants had vacated and that P.B.K. was residing in the unit. He inspected the unit and found damage caused by P.B.K.'s dogs and discovered an additional occupant, Alyssa Susan Fudge ('A.S.F.'). He obtained identification from both occupants and departed. The Landlord does not intend to enter into a tenancy agreement with either occupant. He did not see any of the Tenants in the rental unit.
3. P.B.K. testified that Valerie Kachurowski ('V.K.') still occasionally stays with her in the rental unit, but was evasive with respect to the details of this alleged arrangement. She eventually acknowledged that all three of the Tenants vacated the rental unit in at some point in October, 2019, with V.K. returning on an intermittent basis as her houseguest. She stated that she was unaware that the Tenants had ceased to pay the rent in November, 2019. She claimed that she was unable to contact V.K. with respect to this issue, while simultaneously claiming that V.K. stays in the basement of the rental unit.
4. Ultimately, I find that the Tenants transferred the occupancy of the rental unit to P.B.K. and A.S.F. (the 'Unauthorized Occupants') in a manner that was not authorized by the *Residential Tenancies Act, 2006* (the 'Act'). The Landlord did not enter into a tenancy agreement with either of these occupants.
5. The Unauthorized Occupants were in possession of the rental unit on the date the application was filed. The Landlord is entitled to compensation for the use and occupation of the rental unit by the Unauthorized Occupants.
6. The Landlord was content to allow the Unauthorized Occupants thirty days to secure new accommodations. As section 83 of the Act does not apply to occupants and there was no persuasive evidence submitted that any of the Tenants remain in possession of the rental unit, I find no reason to depart from this recommendation. In any event, the significant interval since the Board suspended termination orders has more than sufficiently fulfilled any need for discretionary postponement against eviction.
7. As the specific date that the Tenants vacated the rental unit remains unknown, this date is set at October 31, 2019.
8. This order contains all of the reasons in this matter and no further reasons will issue.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated as of October 31, 2019.
2. The Unauthorized Occupants shall move out of the rental unit on or before August 15, 2020.
3. The Unauthorized Occupants shall pay to the Landlord \$21,315.07, which represents compensation for the use of the unit from November 19, 2019 to August 4, 2020.

4. The Unauthorized Occupants shall also pay to the Landlord \$82.19 per day for compensation for the use of the unit from August 5, 2020 to the date they move out of the unit.
5. The Unauthorized Occupants shall also pay the Landlord \$190.00 for the cost of filing the application.
6. The Unauthorized Occupants shall pay the Landlord the full amount owing by August 15, 2020.
7. If the Unauthorized Occupants do not pay the Landlord the full amount owing by August 15, 2020, they will owe interest. This will be simple interest calculated from August 16, 2020 at 3.00% on the outstanding balance.
8. If the Unauthorized Occupants have made any payments to the Landlord since the date of the hearing, the Landlord shall set off the amount of such payments against the balance outstanding.
9. If the unit is not vacated by August 15, 2020, then starting August 16, 2020, the Landlord may file this order with the Court Enforcement Office (the Sheriff), so that the eviction may be enforced.
10. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlord after August 16, 2020.

August 4, 2020
Date Issued



Kevin Lundy
Member, Landlord and Tenant Board

Southern-RO
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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 February 16, 2021 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.