



Order under Section 69
Tenant Protection Act, 1997

File Number: TSL-64629

In the matter of: Mavety St
Toronto ON M6P 2L8

Between: Ganbold Lkhaasuren Landlord

and

Tenant

Ganbold Lkhaasuren (the 'Landlord') applied for an order to terminate the tenancy and evict the 'Tenant') because she, another occupant of the rental unit or someone she 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 application was heard in Toronto on October 5, 2004.

The Landlord and the Tenant's representative, attended the hearing. The Tenant did not attend, nor did she provide any reason for her absence to her representative or to the Tribunal and the hearing took place without her participation.

The Landlord presented uncontested evidence that he gave the Tenant three requests in writing asking her to stop smoking in her residential unit because the smoke is transmitted to the other units through the heating and air conditioning ducts and the tenant on the first floor has an asthmatic son. The letters are dated June 8, 2004, June 15, 2004 and June 21 2004. He said that the Tenant did not refrain from smoking in her apartment and he had to block the ducts and turn off the central air conditioner this summer.

The Landlord served an N5 notice on July 6, 2004 and the Tenant continues smoking in her residential unit. He said that he needs to turn on the heating system and unblock the ducts so that all tenants can get heat, but that will allow smoke to be distributed throughout the building.

The tenant who rents the first floor unit, testified that she had been a tenant there for five years, and in the past, other smoking tenants have abided by the house rules and smoked outside so as not to interfere with her son's health. She also testified that the Tenant plays music at a volume level that causes the floors to vibrate on the first floor and to rattle pots and pans in her kitchen. She said that the Tenant persists in that playing music at that volume on a daily basis during the day and in the evenings. She also testified that the Tenant blocks open the lock of the side door, allowing anyone to enter the building and she fears for her safety.

I find that:

1. The Tenant has been repeatedly asked to comply with the house rules regarding smoking and has failed to do so.
2. This conduct has substantially interfered with the other tenants' reasonable enjoyment of the residential complex as well as their lawful right in regards to their health.

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 October 23, 2004.
2. The Tenant shall also pay to the Landlord \$150.00 for the cost of filing the application.
3. If the unit is not vacated on or before October 23, 2004, then starting October 24, 2004, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. 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 October 24, 2004.

October 12, 2004

Date Issued

Régent Gagnon

Member, Ontario Rental Housing Tribunal

Toronto South Region
2nd Floor, 79 St. Clair Ave. E
Toronto ON M4T 1M6

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

In accordance with section 83.1 of the *Tenant Protection Act*, the part of this order relating to the eviction of the Tenant expires on April 24, 2005 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.