

Order under Section 69
Residential Tenancies Act, 2006

File Number: NOL-11802-13

WS (the 'Landlord') applied for an order to terminate the tenancy and evict RB (the 'Tenant') because he, another occupant of the rental unit or someone he permitted in the residential complex has substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant and the building has three or fewer units. The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard in Sudbury on April 16, 2013.

The Landlord and the Tenant attended the hearing. Also attending was SM, witness for the Tenant.

Determinations:

1. The parties acknowledged that the residential complex is a smoke free building.
2. The Landlord has just completed chemotherapy treatment for prostate cancer and is a non-smoker. The Landlord does not wish any exposure to second hand smoke.
3. The Landlord testified the Tenant started smoking in the rental unit within one day of taking occupation on March 1, 2013.
4. The Tenant testified that he and his son, both smokers, initially went outside to smoke but after incidents with the Landlord he has been smoking in the rental unit. This behaviour seriously interfered with the Landlord's reasonable enjoyment.
5. The Tenant raised matters of conflicts with the Landlord during the tenancy. These matters could not be addressed under this application.
6. The Tenant is in the process of vacating the rental unit and would consent to a termination of the tenancy on April 30, 2013.
7. The Landlord wishes the tenancy terminated.
8. The Landlord collected a rent deposit of \$620.00 from the Tenant and this deposit is still being held by the Landlord.
9. The Tenant did not pay the rent for the month of April and the parties agree the deposit shall be applied to the April rent.

It is ordered on consent that:

1. The tenancy between the Landlord and the Tenant is terminated, as of April 30, 2013. The Tenant must move out of the rental unit on or before April 30, 2013.
2. The Landlord shall apply the last month rent deposit to the April rent.
3. If the unit is not vacated on or before April 30, 2013, then starting May 1, 2013, 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 May 1, 2013.

It is further ordered:

5. The Tenant shall pay to the Landlord \$170.00 for cost of the application.

April 18, 2013
Date Issued

Lisa Stevens
Member, Landlord and Tenant Board

Northern-RO
199 Larch Street, Provincial Building, Suite 301
Sudbury ON P3E5P9

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 of the Tenant expires on November 1, 2013 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.