Ontario Rental Housing Tribunal

Ontario

Order under Section 69
Tenant Protection Act, 1997

File Number: SWL-87015

In the matter of: 576 Central Ave
London ON N6B 2G4

Between: Stephanie J Reece — Landlord

and

Tenants

Stephanie J Reece (the 'Landlord') applied for an order to terminate the tenancy and evict [illegible] and [illegible] (the 'Tenants') because they, another occupant of the rental unit or someone they permitted in the residential complex have substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant.

This application was heard in London on November 27, 2006.

The Landlord and the Tenants attended the hearing.

The Tenants moved into the rental unit in December 2005. The Landlord moved into the neighbouring unit in May 2006. The Landlord contends that the Tenants' smoking is interfering with her reasonable enjoyment of her rental unit. The Landlord also testified that there is another recently renovated unit in the building that the Tenants could move into but the rent is higher and the Tenant do not want to pay higher rent. The Landlord testified that she did not want to move into the newly renovated unit because it is smaller than the unit she currently occupies.

The Tenants have been smoking on average approximately one and one half packages of cigarettes a day in the unit. They have changed the arrangement of the unit so that the room in which they smoke is not next to The Landlords unit.

Based on the evidence before me, I will not terminate the tenancy in this application.

If there is an airflow issue with this unit that causes the cigarette smoke to seep from one unit to another, I find it may be more appropriate for the Landlord to deal with the airflow system than to terminate the tenancy of the Tenants because they smoke.

It is ordered that:

1. The Landlord's application is dismissed.

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November 27, 2006
Date Issued

Greg Joy
Member, Ontario Rental Housing Tribunal

SouthWest Region
4th floor, 150 Dufferin Avenue
London ON N6A 5N6

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