

Order under Section 69
Residential Tenancies Act, 2006

File Number: NOL-00301

In the matter of: [Address of Rental Unit]
Sault Ste Marie ON

Between: Richard Folz Landlord

and

[Tenant] Tenant

Richard Folz (the 'Landlord') applied for an order to terminate the tenancy and evict [Tenant] (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 in a residential complex that has three or fewer residential units.

This application was heard in Sault Ste Marie on March 22, 2007.

The Landlord and the Tenant attended the hearing.

In accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), I have considered all the circumstances in this case. Even though I have determined that the Tenants' activities have substantially interfered with the reasonable enjoyment of the Landlord, there is a shortage of low cost rental in the area and the Tenant will require a little more time to find accommodation. Therefore, I find that it would be appropriate to extend the eviction date to April 15, 2007.

Determinations:

1. The Tenant has been smoking in the rental unit contrary to the wishes and requests of the Landlord who lives below and is allergic to cigarette smoke. The Tenant has also refused to remove his garbage from the unit as requested and the resulting smell comes into the Landlord's unit. The Tenant has also not refrained from making excessive noise after so being requested by the Landlord.
2. I find that this conduct has substantially interfered with the Landlord's reasonable enjoyment of the residential complex.
3. The Landlord collected a rent deposit of \$650.00 from the Tenant and this deposit is still being held by the Landlord.
4. Interest on the rent deposit is owing to the Tenant for the period from January 7, 2007 to March 16, 2007

It is ordered that:

1. The Tenant shall refrain from smoking in the rental unit and immediately remove any garbage in the unit.
2. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before April 15, 2007.
3. As of the date of this order, the amount the Landlord is holding for the rent deposit and the interest owing on the deposit equals \$654.65.
4. The Landlord is authorized to offset from the above amount he owes the Tenant the following amounts: \$21.37 per day for compensation for the use of the unit from April 1, 2007 to the date the Tenant moves out of the unit; and \$150.00 for the cost of filing the application.
5. The Tenant may collect from the Landlord any amounts that become owing as a result of this order.
6. The Landlord shall pay the Tenant any amounts owing on the date the Tenant vacates the rental unit and if he does not, he will start to owe interest. This will be simple interest calculated from the day after the Tenant vacates the rental unit at 6.00% annually on the balance outstanding.
7. If the unit is not vacated on or before April 15, 2007, then starting April 16, 2007, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
8. 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 April 16, 2007. The Sheriff is requested to expedite the enforcement of this order.

March 26, 2007
Date Issued

Dan Helsberg
Member, Landlord and Tenant Board

Northern Region
10th floor, 199 Larch Street
Sudbury ON P3E 5P9

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 October 116, 2007 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.