

Order under Section 68  
Residential Tenancies Act, 2006

File Number: SOL-74598-16

In the matter of: [REDACTED]

Between: [REDACTED]

and  
[REDACTED]  
[REDACTED]

I hereby certify this is a true copy of an Order of the Landlord and Tenant Board.

Dated

October 11, 2016  
Landlord and Tenant Board

[REDACTED] (the 'Landlord') applied for an order to terminate the tenancy and evict [REDACTED] (the 'Tenants') because they have substantially interfered with the reasonable enjoyment or lawful right, privilege or interest of the Landlord or another tenant. The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard in Burlington on October 7, 2016. The Landlord's counsel, Joseph Hoffer, attended the hearing. The Tenant, [REDACTED], attended at the hearing site, but departed prior to the commencement of the hearing.

**Determinations and Reasons:**

1. The Tenant, [REDACTED] lives in the rental unit based on a tenancy between a commercial landlord and herself and a supportive housing provider. The Landlord has applied to terminate the tenancy based on repeated disturbances caused by [REDACTED]
2. [REDACTED] has verbally abused other tenants in the residential complex, as well as the Landlord's superintendent. She has even made false allegations of criminality against the superintendent to the police.
3. The Landlord takes the position that the abuse of its other tenants constitutes substantial interference with their reasonable enjoyment of the residential complex, and that the abuse of its superintendent constitutes substantial interference with its lawful interests, as it is required by statute to protect its employees from harassment.
4. The evidence entered in support of the application satisfied me that the Landlord's position is well-founded.
5. A social worker that has assisted [REDACTED] for several years testified that she has received assistance for bipolar disorder for twenty years. She is on medication, and has received psychiatric support. However, she has displayed no inclination to correct her behaviour.
6. Ultimately, the social worker acknowledged that nothing more can be done for [REDACTED]

7. I am satisfied that efforts to accommodate [REDACTED] mental health issues have been made but that she has not been receptive to them.
8. I am further satisfied that the application should be granted, that termination of the tenancy is justified, and that there is no reason to delay or deny eviction pursuant to section 83 of the Act.
9. The Landlord did not seek costs.

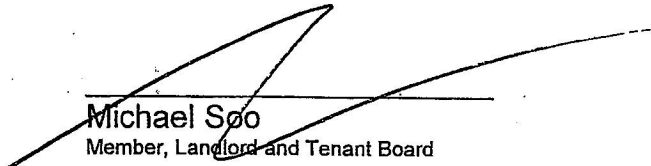
**It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated, as of October 25, 2016. The Tenants must move out of the rental unit on or before October 25, 2016.
2. If the unit is not vacated on or before October 25, 2016, then starting October 26, 2016, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. 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 26, 2016.

**October 11, 2016**

**Date Issued**

Southern-RO  
119 King Street West, 6th Floor  
Hamilton ON L8P4Y7



Michael Soo

Member, Landlord and Tenant Board

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

Order under Section 68  
Residential Tenancies Act, 2006

File Number: SOL-75872-16

In the matter of: [REDACTED]  
[REDACTED]

Between: [REDACTED]

Landlord

I hereby certify this is a true copy of an Order

and  
[REDACTED]

Dated

DEC 29 2016

Tenant

Landlord and Tenant Board

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

This application was heard in Burlington on December 9, 2016.

Only the Landlord's Legal Representative, [REDACTED], attended the hearing. By 11:07 a.m. the Tenant had not attended the hearing, though properly served with the notice of hearing.

**Determinations:**

Merits of the application

1. [REDACTED], the superintendent of the Landlord, testified that the residential complex is 180 unit building.
2. [REDACTED] (AF), a tenant in the complex testified that she lives across the hall from the Tenant. On September 27, 2016 at 3:45 p.m., she was waiting for the elevator on their floor when the Tenant exited the Tenant's unit, and walked down the common hallway towards AF. She stopped within 8 feet of AF, then stared at her for approximately one and one half minutes. She then walked back towards her unit, before turning around and coming back to within 8 feet of AF and stared at her again for approximately one minute. This made AF feel very uncomfortable.
3. AF also testified that on September 28, 2016 at 3:45 p.m., she put garbage down the waste disposal shoot on her floor. On the way back to her unit, she encountered the Tenant, who yelled at her: "You'd better watch out...you'd better watch yourself or I'll

fucking come after you. I'll call the police this afternoon". The Tenant then returned to her unit, after which time, AF returned to hers. This incident also made AF feel very uncomfortable.

4. AF also testified that she moved into her unit on December 15, 2015 and that she does not have a personal relationship or history with the Tenant. However, AF also testified that she had been a witness for the Landlord at an April 2016 hearing against the Tenant and speculates that this may have triggered the above behaviour.
5. I accepted this uncontested testimony as clear proof that the Tenant has substantially interfered with the other tenants' reasonable enjoyment of the residential complex.
6. An employee of the Landlord, [REDACTED], testified that The Tenant was given a first Notice of Termination under section 64 of the *Residential Tenancies Act, 2006* (the Act) and that this notice was void because the Tenant corrected the problem within the time period set out in the notice. Serving a second Notice of Termination was permissible pursuant to Section 67 of the Act.

#### Relief from eviction

7. In support of its position against relief, the Landlord presented several witnesses, mostly other tenants in the complex. One such tenant, [REDACTED] (HM), testified that on November 10, 2016, she and the Tenant were alone in an elevator in the complex. The Tenant faced her from two feet away, making a noise in her throat that signalled she was gathering phlegm. HM then pleaded with the Tenant not to spit on her, in response to which the Tenant opened her mouth to show HM the phlegm gathered therein. The Tenant then closed her mouth and used her car keys to strike repeatedly at various buttons on the elevator panel. HM testified that the Tenant "was like a crazy woman".
8. As well, another tenant [REDACTED] (VM), testified that she and her eight year old son live next door to the Tenant and that two months ago, for a three to four day period, when she and her son passed the Tenant's door to go to the elevator, the Tenant yelled "unintelligible things" to them through her door. Then, while VM and her son waited at the elevator, the Tenant opened and closed the door to the Tenant's unit between seven to eight times. As well, VM testified that for during the course of four consecutive months last summer, she heard the Tenant from time to time open and close the mail slot on the front door of her unit 100 times in rapid succession. As a result, HM's son is afraid to walk the hallway. HM testified that she avoids looking in the Tenant's eyes as she "seems a little off".
9. As well, another tenant, [REDACTED] (FT), testified that she lives directly above the Tenant and that on November 22 and 24, 2016, she heard very loud screaming and yelling from the Tenant's unit.
10. In addition, [REDACTED], the superintendent of the complex testified that on the Wednesday before the hearing, the Tenant followed him outside of the complex and spat three times from 10 meters behind him. He further testified that sometimes when he

knocks on her door to respond to maintenance issues, she opens that door and shouts "Fuck get out". At other times, he has seen her scream outside of the building.


11. SM further testified that the Tenant's tenancy pre-existed the Landlord's purchase of the complex. She directed my attention to the Tenant's application to lease dated May 17, 2016 that the Tenant completed under the ownership of the predecessor landlord. Under the heading "Occupation", the document reads "Author/ODSP". SM testified that in an effort to explore the Tenant's possible disability status, she contacted the Tenant's support worker with Halton Community Housing Corporation (HCHC) on September 14, 2016, who advised that HCHC only subsidizes the Tenant's rent, but is not involved and is not aware of any circumstances related to disability.
12. The Landlord presented these witnesses to show the strain that would be placed on other tenants and the Landlord's employees were the tenancy allowed to continue. The Landlord accomplished this goal. The impact of the Tenant's described behaviours might reasonably concern and unnerve anyone exposed to them.
13. At the same time, the testimony of all the witnesses paints a negative picture of the Tenant's mental health. On a balance of probabilities, all of the evidence before me clearly demonstrates that the issues that have given rise to the application have their foundation in an unspecified disability of the Tenant. As such, the Landlord's duty to accommodate under the Ontario Human Rights Code (the Code) is triggered.
14. In response to my expressed concern about state of the Tenant's mental health, JH submitted that under Ontario law, the Tenant is presumed to have capacity and that as such, her absence at the hearing should be deemed to be voluntary. However, JH also submitted that if the Code is properly invoked in the present case, then the Landlord has fulfilled its duty to accommodate by: contacting the Tenant's social service worker in an effort to ascertain the Tenant's mental health circumstances; contacting the police who could have connected her to support services and by serving the Tenant with the termination notice related to this application, which made her aware that her tenancy is at risk.
15. I recognize that, at times, people with mental health disabilities may have difficulty asking for help, appreciating the nature of their circumstances or attending hearings such as this one. There is insufficient evidence before me to infer that this was the case here. In any event, the Tenant's absence from the hearing has made it difficult for me to assess the adequacy of the Landlord's accommodation efforts. On one hand, the Landlord did not take certain, easily undertaken steps, such as directly asking the Tenant if she has any needs or asking how she might best be accommodated. On the other hand, the Landlord did outreach to the Tenant's support worker, which, given her unpredictable and problematic behaviour, may have been an appropriate alternative to directly engaging the Tenant. As well, the Tenant's absence makes it problematic for me to consider how best to formulate a possible accommodation plan or even if the Tenant wants to be accommodated.

16. What is clear is that the Tenant's behaviour has had and continues to have a disturbing and fear-inducing impact on the experience of her fellow tenants as well as the employees of the Landlord.
17. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone eviction until February 28, 2016 pursuant to subsection 83(1)(b) of the Act. Specifically, judging from the Tenant's anti-social behaviour, it is not unreasonable to infer that she might need additional time to establish contacts with prospective landlords and support services necessary to transition with dignity to another residence.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated, as of February 28, 2017. The Tenant must move out of the rental unit on or before February 28, 2017.
2. The Tenant shall pay to the Landlord \$170.00 for the cost of filing the application.
3. If the Tenant does not pay the Landlord the full amount owing on or before January 8, 2017, the Tenant will start to owe interest. This will be simple interest calculated from January 9, 2017 at 2.00% annually on the balance outstanding.
4. If the unit is not vacated on or before February 28, 2017, then starting March 1, 2017, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
5. 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 March 1, 2017.

**December 29, 2016**  
**Date Issued**

  
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**Sean Henry**  
Member, Landlord and Tenant Board

Southern-RO  
119 King Street West, 6th Floor  
Hamilton ON L8P4Y7

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 July 5, 2017 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.