



Order under Section 69
Residential Tenancies Act, 2006

File Number: TEL-97410-18

In the matter of: [Redacted Name]

Verify only this is a true copy of the Order
(State of Ontario)

Between: Landlord Rescue Inc.

(Signature of Chair Member)

Applicant

and
[Redacted Name]

MAY 26 2019

Landlord and Tenant Board

Tenant

Landlord Rescue Inc. (the 'Landlord') applied for an order to terminate the tenancy and evict [Redacted Name] (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes; and 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.

This application was heard in Toronto on March 20, 2019.

The corporate Applicant's agent (owner), R. Berube, the Applicant's representative, M. Tchavoshi, the Tenant and the Tenant's representative, [Redacted Name] attended the hearing.

Determinations:

1. The Applicant is not a "Landlord" as defined in the *Residential Tenancies Act, 2006* (the 'Act'), and is not authorized to provide legal services in the Province of Ontario. The Applicant therefore did not have the authority to serve notices of termination under the act, and did not have authority to file applications with the Board.
2. The Applicant is a private property management company. The Applicant does not own the residential complex or the rental unit. Furthermore, the Applicant did not enter into the March 28, 2018 written tenancy agreement with the Tenant. The Applicant, therefore, is not a "person who permits occupancy of a rental unit". Instead, [Redacted Name], the property owner and the person who entered into the March 28, 2018 tenancy agreement with the Tenant, is the "person who permits occupancy of a rental unit"; and [Redacted Name] is therefore the "Landlord" as defined in the Act.
3. In *Law Society of Upper Canada v. Chiarelli*, 2014 ONCA 391, the Court of Appeal for Ontario upheld the Divisional Court's 2013 decision, in which the Divisional Court determined that the appellant in that case, V. Chiarelli, was not authorized to provide legal services to a property owner with respect to matters that arise under the Act. Although Chiarelli operated a property management company, he did not meet the Act's definition of "Landlord". Chiarelli did not enter into tenancy agreements with tenants, and did not own the properties he was hired to purportedly manage. Furthermore, as an

unlicensed individual, the courts ruled that Chiarelli was not authorized to provide legal services to landlords under the Act.

4. The courts' reasons in *Law Society of Upper Canada v. Chiarelli* are applicable in this present application. The Applicant in this proceeding acts as a property manager in exchange for financial compensation. The Applicant is not, however, the owner of the property, and is not a person who permits people to occupy rented residential premises in exchange for the tenant's obligation to pay rent. Accordingly, the Applicant does not meet the Act's definition of "Landlord".
5. Subsections 64(1), 68(1) and 59(1) of the Act permit a landlord to serve notices of termination where a tenant is alleged to have substantially interfered with the reasonable enjoyment of the property, or is alleged to have failed to pay all of the rent the tenant was required to pay. Section 69 of the Act permits a landlord who has served a notice of termination to apply to the Board to terminate a tenant's tenancy.
6. In this case, I conclude that since the Applicant is not a "Landlord" as defined in the Act, the Applicant did not have authority under the Act to serve notices of termination and to begin applications to the Board.
7. The Law Society of Ontario (formerly the Law Society of Upper Canada) licenses individuals to provide legal services in Ontario. Although not "Landlords" as defined in the Act, such individuals have the privilege of being authorized to provide legal services in Ontario, including matters that arise under the Act. Licensees, therefore, are authorized to serve notices of termination and to file applications with the Board on behalf of their clients.
8. The Applicant in this proceeding, however, is not a Licensee, and therefore is not authorized to serve notices of termination and begin applications under the Act.
9. Additionally, a landlord is required to inform a tenant that a notice of termination served pursuant to subsection 64(1) of the Act becomes void, if the tenant stops the activities described in the notice within seven days. In this present proceeding, the Applicant failed to inform the Tenant in the first Form N5 notice of termination that the Tenant may void the notice if she stops the impugned activity. The first and second Form N5 notices of termination are therefore void.
10. At the hearing, the Applicant's representative requested the consent of the Board to withdraw the Applicant's application to terminate the Tenant's tenancy for substantial interference. In accordance with subsection 200(4) of the Act, I consented to the withdrawal of the application to terminate the Tenant's tenancy for substantial interference.
11. The Applicant's application to terminate the tenancy and evict the Tenant for non-payment of rent shall be dismissed, because the Applicant did not have standing to serve the Form N4 notice of termination or file the L1 application with the Board.

12. I have elected not to refer the Applicant to the Law Society of Ontario to determine whether the Applicant has engaged in the unauthorized practice of law. There was no evidence adduced at the hearing to show that the Applicant acted in bad faith. I am therefore confident that this order will inform the Applicant and her employer, the property owner, of some of their rights and responsibilities.

It is ordered that:

1. The Applicant's application is dismissed.

March 28, 2019

Date Issued



Harry Cho
Member, Landlord and Tenant Board

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