

Shukla v Whalen, 2021 CanLII 146727 (ON LTB)

Date: 2021-11-15  
File number: CEL-01466-21-SA  
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<<https://canlii.ca/t/jnh7g>>, retrieved on 2024-01-11



**Tribunals Ontario**  
Landlord and Tenant Board

Order under Section 77(8)

**Residential Tenancies Act, 2006**

**File Number:** CEL-01466-21-SA

**In the matter of** ROOM 3 & 5, 3972 ON-21 PORT ELGIN ON N0H2C5  
**f:**

<b>Between:</b>	Ajay Shukla	Landlord
	<b>and</b>	
	Arianna Whalen Cole Whalen Jennifer Whalen Jesse Whalen	Tenants

Ajay Shukla (the 'Landlord') applied for an order to terminate the tenancy and evict Arianna Whalen, Cole Whalen, Jennifer Whalen and Jesse Whalen (the 'Tenants') because the Tenants entered into an agreement to terminate the tenancy. That application was resolved by order CEL- 01466-21 issued on July 22, 2021.

The Tenants filed a motion to set aside order CEL-01466-21. This motion was heard by videoconference on October 8, 2021.

The Landlord and one of the Tenants, Jennifer Whalen, attended the hearing.

**Determinations:**

1. The Landlord and the Tenants entered into a valid agreement to terminate the tenancy and the Landlord is entitled to enforce the agreement.
2. The residential complex is a motel. The pandemic adversely affected the motel. Most of the rooms were empty and the restaurant in the complex closed. The Landlord rented two rooms to the Tenants not knowing that by doing so the *Residential Tenancies Act, 2006* would apply. The Landlord decided to close the motel and address structural issues identified by a building engineer. On March 1, 2021, the Landlord's superintendent gave the Tenants a notice of termination with a termination date of May 31, 2021. They did not object to the notice until the termination date, when they pointed out correctly that they did not have to move because the notice was not on a Board form.
3. The Tenants alleged that, after they refused to move, the Landlord's superintendent harassed them by turning off cable service and water supply. They sought help from a

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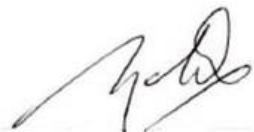
Legal Clinic. At this point the Landlord got involved and negotiated an agreement to terminate the tenancy with the Tenants. The Tenants requested \$30,000.00 to move out. The Landlord agreed to pay the Tenants \$11,000.00, the equivalent of seven months' rent, in exchange for vacating the rental units on July 11, 2021. The Landlord gave the Tenants a week to think about the offer and seek legal advice. The agreement was ultimately drafted by a lawyer from the Legal Clinic and the terms of the agreement were designed to avoid any claw back of social assistance benefits the Tenants receive. The Landlord paid the Tenants \$5,500.00 on signing. The balance was to be paid when the Tenants provided vacant possession of the units.

4. The Tenant's claim that they were coerced into signing the agreement is without merit. They had the benefit of legal advice and signed the agreement because the Landlord's offer was generous and too good to refuse.

5. I am not satisfied, having regard to all the circumstances, that it would not be unfair to set aside the order. The Landlord paid generous compensation to the Tenants for terminating the tenancy. The Landlord was in a difficult position because the Landlord had paid a \$20,000.00 deposit to the contractor to enable the latter to rent equipment for the purpose of commencing the work in July 2021. The Tenants' spurious motion has delayed the project for 4 months. A further delay would be unfair to the Landlord.

**It is ordered that:**

1. The motion to set aside Order CEL-01466-21, issued on July 22, 2021, is denied.
2. The stay of order CEL-01466-21 is lifted immediately.
3. Order CEL-01466-21 is unchanged.



**November 15, 2021**

**Date Issued**

**Egya Sangmuah**

Vice Chair, Landlord and Tenant Board

Central-RO

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