



FEB 22 2024

Landlord and Tenant Board

**Order under Section 98
Residential Tenancies Act, 2006**

Citation: Mir Sharifi v Kulla, 2024 ONLTB 14023

Date: February 22, 2024

File Number: LTB-T-070817-23

In the matter of: Main Floor, 758 Pinewood Drive
Peterborough Ontario K9K1L4

Between: Negar Mir Sharifi Tenant

And

Alket Kulla Landlords
Kulla Property Management

Negar Mir Sharifi (the 'Tenant') applied for an order determining that Alket Kulla ('AK') and Kulla Property Management (the 'Landlords') arbitrarily or unreasonably withheld consent to the sublet of the rental unit to a potential assignee or subtenant.

This application was heard by videoconference on February 13, 2024.

Only the Tenant attended the hearing.

As of 9:44am, the Landlords were not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Tenant's evidence.

Determinations:

1. I find the following facts based on the uncontested testimony of the Tenant and my review of the documents entered as exhibits, as noted:
 1. The Tenant entered into a tenancy agreement with the Landlords for the period May 1, 2023 to October 31, 2023 and paid the Landlords the full rent for the 6 months up front at a rate of \$2,495.00 per month – an amount of \$14,970. The Tenant also paid the Landlords a damage deposit in the amount of \$500.00;
 2. The Tenant's employment circumstances changed and she notified the Landlords that she would need to vacate the unit as of August 4, 2023. She requested return of two months' rent (for September and October 2023) and offered to attempt to locate a new tenant to sublet the unit. The Landlord AK agreed to the Tenant finding a potential new tenant;

3. The Tenant initially found a family who needed the unit for the period August 8th through September 1, 2023. The Landlord AK refused to consent to a sublet to these tenants in light of the short duration of their potential occupancy (Refer Exhibit 1, being a series of text messages between the Tenant and the potential tenants at 'Proof 1' of the Tenant's submissions to the Board);
 4. The Tenant subsequently found another prospective tenant and asked that person to submit an application to the Landlord AK. The person attempted to contact the Landlord AK using the link provided by the Landlord AK but received a message to the effect that the site was not available. The Tenant then provided the person with the Landlord AK's telephone number but heard nothing further. (Refer Exhibit 1, being texts between the Tenant and the prospective tenant, including a screen shot of the 'site not available' message, at 'Proof 2' of the Tenant's submissions);
 5. The Tenant had sent the Landlords' link to a number of prospective tenants before she was informed that the link was inoperable;
 6. The Tenant found another prospective tenant – a couple – to whom she provided the Landlord AK's telephone number. The couple informed the Tenant that the Landlord AK was not receiving calls (Refer Exhibit 3, being texts between the Tenant and the couple at 'Proof 3' of the Tenant's submissions);
 7. The Tenant returned the keys to the Landlord AK in August 2023 and informed the Landlord AK that he had a duty to mitigate her termination; and
 8. The Tenant does not know whether or when the Landlords re-rented the unit but the Landlords have not returned any portion of the rent paid through to October 31, 2023 or any portion of the \$500.00 security deposit.
2. I find that the Landlords' refusal to consent to the initial set of prospective tenants was not unreasonable in light of the fact that the proposed three week tenancy was an unduly short duration.
 3. I find, however, that the Landlords' inaccessibility for receipt of applications was unreasonable in the face of his knowledge that the Tenant was attempting to arrange for subtenants. I find that the Landlords' failure to cooperate in this regard amounted to an unreasonable withholding of consent to the prospects presented by the Tenant.
 4. I find that the Tenant is entitled, in light of the Landlords' unreasonable refusal to consent to proposed sublets, to a rental rebate and an order terminating the tenancy in advance of the October 31, 2023 termination date of the lease.
 5. The Tenant testified that supply of rental units in Peterborough was very tight such that it should not have taken the Landlords as long as three months (to the end of October 2023) to find a new tenant.
 6. I accept the Tenant's testimony about the tight rental market in Peterborough but consider that it may reasonably have taken the Landlords more than three weeks (to the end of

August) to secure new tenants. I find, accordingly, that had the Landlords complied with their responsibility to mitigate the termination of the Tenant's tenancy the unit should have been re-rented by no later than October 1, 2023.

7. Accordingly, the tenancy should properly be terminated as of September 30, 2023 and the Tenant is entitled to rebate of the prepaid rent for the month of October 2023.
8. I also find that the Tenant is entitled to return of the \$500.00 security deposit, which was collected by the Landlord in contravention of the Act.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated as of September 30, 2023.
2. The Landlords shall pay the Tenant \$3,048.00. This amount represents:
 - \$2,495.00 in rent abatement for the month of October 2023;
 - \$500.00 for return of the improperly collected security deposit; and
 - \$53.00 for the cost of filing the application.
3. The Landlords shall pay the Tenant the full amount owing by March 4, 2024.
4. If the Landlords do not pay the Tenant the full amount owing by March 4, 2024, the Landlords will owe interest. This will be simple interest calculated from March 5, 2024 at 7.00% annually on the balance outstanding.
5. The Tenant has the right, at any time, to collect the full amount owing or any balance outstanding under this order.

L Mitchell

February 22, 2024
Date Issued

Lynn Mitchell
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.