



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Salih v Lacroix, 2023 ONLTB 28355

Date: 2023-03-29

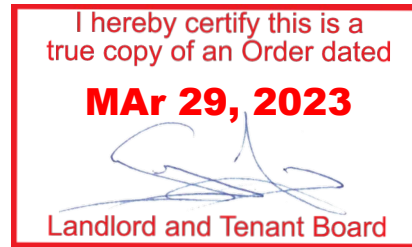
File Number: LTB-L-024936-22

In the matter of: 252 Adeline Ave
Hamilton ON L8H5V3

Between: Abdul Salih

And

Jeanine Lacroix
Jonathan Lachance



Landlord

Tenants

Abdul Salih (the 'Landlord') applied for an order to terminate the tenancy and evict Jeanine Lacroix and Jonathan Lachance (the 'Tenants') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

The Landlord also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on March 20, 2023. The Landlord, represented by Curt Anderson, and the Tenants, attended the hearing.

Determinations:

1. The Tenants argue that the application should be dismissed because the first declaration submitted by the Landlord does not state that the Landlord's daughter intends to reside in the rental unit for at least a one-year period. The Landlord did submit an amended declaration prior the hearing which does include this statement. I find this is an insufficient reason to dismiss the Landlord's application without hearing the merits of the case.
2. The Tenants also submit that the notice was served in bad faith because the Tenant refused to pay an additional \$300.00 per month that the Landlord requested. They testified that the Landlord told them he needed to money for extra furnace and air conditioning costs.
3. The Landlord testified that he made no written request for additional money.
4. The Landlord's daughter, who intends to move into the rental unit, testified that she has no income, and on December 24, 2022, gave birth to a second child. Her husband, who recently moved to Canada from Iraq, does not speak English and is enrolled in a program to gain the ability to speak English to secure employment. The Landlord has been supporting his daughter including paying for her trips to Iraq to be with her husband.

5. It appears that the Landlord's daughter in good faith wishes to move into the rental unit.
6. Section 83 of the *Residential Tenancies Act* requires the Board to consider all the circumstances before terminating a tenancy. In this case, the Tenants have four children, aged three, five-year old twins, and an eight-year-old. The Tenants have lived in the rental unit for six years.
7. The children currently in school are enrolled in French immersion and the school in in their catchment area. The Tenants testified that if they are required to move out of the catchment area, they would need to apply to remain in the French immersion program and may lose this option.
8. Ms. Lacroix testified that after coming down with Covid she has had serious medical complications and provided a long list of the issues, including a long hospitalization and rehabilitation.
9. Mr. Lachance has been diagnosed as an agoraphobic which means he can only travel short distances without panic and anxiety.
10. According to the Tenants' testimony and written submission, both tenants are on a number of medications and are on ODSP. They have been looking for alternative accommodations but have not found anything they can afford. The Tenants have also applied for rent geared to income housing and are on the waiting list.
11. In consideration of the Tenants overall circumstances, I find it would be unfair to terminate this tenancy. I find effect on the Tenants and their family would have a seriously negative on their lives. These Tenants have lived in rental unit for six years, raised their family, paid their rent, and established this as their home. Despite the Landlord's daughter's desire to reside in the rental unit, I will grant relief from eviction.

It is ordered that:

1. The Landlord's application is dismissed.

March 29, 2023



Date Issued

Greg Joy
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor,
Toronto ON M7A 2G6

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

