



**Order under Section 77
Residential Tenancies Act, 2006**

Citation: BANGAR HOLDINGS INC. v RAHAMAN, 2022 ONLTB 11442

Date: 2022-11-14

File Number: LTB-L-053399-22

In the matter of: 5, 19834 AIRPORT ROAD
CALEDON ON L7K0A1

Between: Landlords
MOHINDER PAL BANGAR
BANGAR HOLDINGS INC.
And

AMJAD RAHAMAN Tenant

MOHINDER PAL BANGAR and BANGAR HOLDINGS INC. (the 'Landlords') applied for an order to terminate the tenancy and evict AMJAD RAHAMAN (the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy.

This application was heard by videoconference on December 5, 2022. The Landlords, the Landlords' legal representative, Yasmin Van Maurik, the Tenant, Amjad Rahaman, and the Tenant's legal representative, Dan McIntyre, attended the hearing.

Preliminary issue:

1. The parties agreed that the Tenant's mother, who signed the original tenancy agreement as a tenant, who was named as a tenant in the application, and who signed the agreement to terminate the tenancy, was an occupant rather than a tenant and that she should be removed as a party to these proceedings. On the consent of the parties, I removed the Tenant's mother as a party to these proceedings.

Determinations:

2. On July 14, 2022 and July 15, 2022, the Tenant and the Landlords' legal representative respectively signed an N11 agreement to end the tenancy on August 31, 2022 as well as a Terms of Agreement document.
3. The Tenant does not dispute that he signed the N11 and the Terms of Agreement, but states that he was coerced into doing so.
4. The Tenant states that he received an N4 notice for nonpayment of rent in May 2022. He says that this notice was accompanied by a letter inviting the Tenant to negotiate a payment plan for the arrears. He says when he first called the Landlord's legal representative to discuss a payment plan, she refused to negotiate unless he first agreed to sign an agreement to terminate the tenancy.



5. The Tenant recorded subsequent conversations he had with the Landlord's legal representative and submitted them into evidence at the hearing. He claimed that in these recorded conversations the Landlord's legal representative was refusing to negotiate a payment plan unless he first agreed to sign an agreement to terminate the tenancy. I did not find this to be the case. While the participants in the conversation discuss a payment plan and discuss agreeing to terminate the tenancy, there is no indication in the conversation that the Landlord's legal representative required the Tenant sign an agreement to terminate the tenancy as a prerequisite to entering into a payment plan. On the contrary, the recorded conversation starts with discussion of a payment plan and then turns to discussion about terminating the tenancy. The Tenant's misperception of the recorded conversations persuades me that the Tenant also misconstrued the position of the Landlord's legal representative in the first unrecorded conversation he had with her.
6. As a result, I find as a fact, that the Tenant has failed to prove on a balance of probabilities that the Landlord refused to negotiate a payment plan unless the Tenant signed an agreement to terminate the tenancy. While I am not sure that this would have even constituted coercion, the Tenant's inability to establish this fact makes the Tenant's claim of coercion to be unfounded.
7. I am mindful that the Terms of Agreement signed by the parties states that the parties obtained legal advice and that the Tenant states he did not do so, however, it is not a requirement that a tenant get legal advice prior to signing an agreement to terminate a tenancy. All that is required is that the parties understand that they are agreeing to terminate the tenancy and that they do so willingly.
8. I find in this case that the Tenant understood that he was agreeing to terminate the tenancy and that he did so willingly. The Tenant's email to the Landlord and the Landlord's legal representative dated July 15, 2022, the day after he signed the agreement to terminate the Terms of Agreement, indicates that the Tenant was pleased that the matter had been brought to a "satisfactory conclusion".
9. I also note that the Tenant obtained an economic benefit in the Terms of Agreement. It was argued that this was also a form of coercion that tainted the agreement to terminate the tenancy. I do not find this to be the case. Offering incentives is a standard and acceptable part of negotiations is a far cry from coercion.
10. In conclusion, I find that the parties agreed to terminate the tenancy and that the Landlords have made out a prima facie case to terminate the tenancy.
11. I have considered all of the disclosed circumstances in accordance with subsection 83 of the Residential Tenancies Act, 2006 and find that it would not be unfair to postpone the eviction until January 15, 2023 pursuant to subsection 83(1)(b) of the Act. In this regard, amongst the other disclosed circumstances, I particularly considered the poor health of the Tenant's elderly mother and the difficulty she would have moving from the rental unit.



12. Since the Tenant did not move out of the rental unit by the termination date, the Landlord was required to file the application to obtain vacant possession. Therefore, the Tenant is responsible for paying the Landlord for the \$201.00 application filing fee incurred.

It is ordered that:

1. The tenancy between the Landlord and Tenant is terminated. The Tenant must move out of the rental unit on or before January 15, 2023.
2. If the unit is not vacated on or before January 15, 2023, then starting January 16, 2023, 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 January 16, 2023.
4. The Tenant shall pay to the Landlord \$201.00, for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before January 15, 2023, the Tenant will start to owe interest. This will be simple interest calculated from January 16, 2023 at 4.00% annually on the balance outstanding.

December 15, 2022
Date Issued

Richard Ferriss

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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on July 15, 2023 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.