



**Sep 25, 2023**

Landlord and Tenant Board

**Order under Section 77(8)  
Residential Tenancies Act, 2006**

**Citation:** Song v Donaldson, 2023 ONLTB 64186

**Date:** 2023-09-25

**File Number:** LTB-L-048101-23-SA

**In the matter of:** 302, 2333 SAWGRASS DR  
OAKVILLE ON L6H0L2

**Between:** Wei Song Landlord

**And**

Peter Donaldson and Samantha Colodij Tenant

Wei Song (the 'Landlord') applied for an order to terminate the tenancy and evict Peter Donaldson and Samantha Colodij (the 'Tenants') because the Tenants gave notice to terminate the tenancy.

The Landlord's application was resolved by order LTB-L-048101-23, issued on June 30, 2023. This order was issued without a hearing being held.

The Tenants filed a motion to set aside order LTB-L-048101-23.

The motion was heard by videoconference on September 14, 2023. The Landlord, represented by Rong Wei Yu, and the Tenant Peter Donaldson, represented by Peter Giblett, attended the hearing.

**Determinations:**

1. The Tenants' legal representative, Julie Rose, who worked at the same law office as Peter Giblett, gave the Landlord notice to terminate the tenancy effective June 30, 2023 on behalf of her clients.
2. The evidence shows there were eight email exchanges between the Landlord's representative and Ms. Rose negotiating the N9 notice to terminate the tenancy. Ms. Rose was an observer at this hearing, was sworn in and testified that it is her signature on the N9 document.
3. The Landlord had served the Tenants with an N12 with a termination date of September 30, 2022, and had filed an L2 application to terminate the tenancy. The Landlord's parents' permanent residents in Canada but had returned to China during Covid. The Landlord's parents are in their late 70's and due to health issues and the current political environment in China, wish to return to Canada. This was the reason the Landlord served the N 12 notice for landlord's own use. The Landlord testified that he intends to have them live in the home rent free when they return.

4. The purpose of the negotiations with the Tenant's legal representative for the N9 notice was to provide the Tenants with an additional nine months to vacate the unit. The Landlord agreed and the N9 was executed.
5. A text message from Mr. Donaldson to the Landlord, which was entered into evidence by the Landlord's representative, states "We plan on moving out by July 1, 2023." The Tenant testified that this did not mean that they intended to move out.
6. The evidence clearly shows that the Landlord intended to have this tenancy terminated for his parents to move into the home, which is why the N12 was served on the Tenants and the application was filed with the Board. The Tenants had a legal representative negotiate with the Landlord's legal representative a delayed termination date which was demonstrated by the N9 notice to terminate the tenancy nine months later than the termination date on the N12. I do not accept that the text message written by the Tenant to the Landlord informing him that the Tenant's plan to move out by July 1, 2023, is not confirmation of their intent.
7. The Tenants have requested a delay of terminating the tenancy until June 2024. I find this request to be unfair to the Landlord. The termination date agreed to by the Landlord was delayed at the Tenants' request and the Landlord withdrew the application to terminate the tenancy earlier. The Tenants are concerned about their child's educational needs in a gifted program. However, it is the Tenants who have chosen to remain in the unit.
8. However, considering the fact the Landlord's parents are currently in China, I find it reasonable to delay the termination of the tenancy for two additional months. This will be fourteen months after the termination date on the N12 notice and five months after the date the Tenants agreed to vacate the unit. This provides the Tenants additional time to relocate.
9. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-048101-23.
10. The stay of order LTB-L-048101-23 will be lifted on November 30, 2023.

**It is ordered that:**

1. The motion to set aside Order LTB-L-048101-23, issued on June 30, 2023, is denied.
2. The stay of Order LTB-L-048101-23, is lifted on November 30, 2023.
3. Order LTB-L-048101-23 is unchanged.

**September 25, 2023**



**Date Issued**

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**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.