

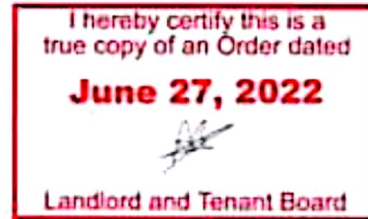


**Order under Section 77  
Residential Tenancies Act, 2006**

**File Number: CEL-04337-21**

**In the matter of:** UNIT 2 (BASEMENT), 9 VALONIA DRIVE  
BRAMPTON ON L6V4J2

**Between:** Malini Roy  
Vikramaditya (Vikram) Maity



**Landlords**

**and**

Tara Zolnai

**Tenant**

Malini Roy and Vikramaditya (Vikram) Maity ('MR' and 'VM' or collectively, the 'Landlords') applied for an order to terminate the tenancy and evict Tara Zolnai ('TZ' or the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy. (L3 application)

This L3 application was sent to a hearing by a Board Duty Member. The L3 application was heard by videoconference on March 16, 2022.

One of the Landlords, VM, the Landlords' Legal Representative, Sarah Teal ('LLR'), and the Tenant attended the hearing. The Tenant consulted with Tenant Duty Counsel prior to the hearing. The parties went into a breakout room to discuss application but returned to the hearing room after not being successful in their discussions.

As a preliminary matter, the Landlords requested the address of the rental unit be corrected. While the rental unit is identified as "unit B - bsmt" in the L3 application, the Landlords indicated the unit should be amended to read "unit 2 - bsmt" as identified in the agreement to terminate which is used as the basis for the L3 application. The Landlords live above the Tenant, meaning that the Tenant lives in the basement unit whereas the Landlords live in the upper unit. The Tenant did not contest the request for this minor change to the L3 application. As shown in the title of proceedings above, the rental is now shown as "unit 2 (basement)".

**Determinations:**

1. LLR submitted the parties mutually agreed to terminate the tenancy resulting in their form of agreement signed by the parties on November 6, 2021. A copy of the signed agreement was attached as part of the L3 application. VW is the principal landlord who regularly dealt with tenancy matters and is the one who signed the agreement for the Landlords. There was no contestation on this point.
2. The parties confirmed the tenancy is a month to month tenancy, as there is no written lease to speak of.

14. In this case, the Tenant questioned whether the Agreement meets the form of the Board's N11 "Agreement to End the Tenancy". In my view, it does. While the Agreement may not look like the N11 form, the substantive elements of an N11 are present in the Agreement. Specifically, the document sets out it is an agreement between the parties, and it provides the rental unit address, the names of the parties and the termination date. As well, there is no argument the parties signed the Agreement.
15. Looking specifically at the rental unit address, I gave consideration to the fact the Agreement identifies the rental unit as "unit #2", whereas the L3 application as filed referred to "unit B – bsmt". In my view, there is no confusion here between the parties as to what rental unit has been the subject of their agreement – they both knew, and know, that the "unit #2" in the Agreement is the one and same unit as "unit B – bsmt". And certainly, the Agreement correctly identifies the rental unit so that from the outset, the parties knew they were agreeing to terminate the only tenancy in the residential building, that is the tenancy agreement between the Landlords and the Tenant for the basement rental unit, unit #2.
16. The Agreement is not a notice as contemplated under section 47 of the Act, because the Agreement is not a "one-way" notice – that is, it is not a notice given by the Tenant to the Landlords. Here, it is clearly an agreement between the parties that falls instead to what is set out in section 77 of the Act. Section 77 of the Act does not require a certain number of days be named for the tenancy to terminate; it simply sets out that a landlord and tenant have entered into an agreement to terminate the tenancy in question. In the present case, the parties agreed upon a 30-day timeframe to terminate.
17. When considering an N11 agreement (in the Board's form), it is noteworthy that it is not a contract in the traditional sense as it is an agreement to terminate without the need to exchange consideration.
18. When I consider the Landlord's own submission that his motivation to end the tenancy was based on a need to have his mother-in-law move into the rental unit, I was not given any evidence that the Landlord misled the Tenant about his motive, or forced her to enter into the Agreement to end the tenancy. It is evident the Tenant entered into the Agreement through a mutual agreement of the parties.
19. If the Tenant had wished to seek independent legal advice, she could have done so. The Tenant's own submission is that she only became aware of her rights sometime after she signed the Agreement. The Tenant never made it clear what rights exactly she had come to be aware about, but the Landlords' representative speculated it might have had to do with subsections 48.1 and 55.1 of the Act respecting compensation (had a section 48 notice to terminate been in play). It seemed to me the Landlords' representative made this guess because she claimed the Tenant stopped paying monthly rents. In any event, nothing was presented here for me to consider in any meaningful way and so I make no finding herein.
20. Finally, I have not given any consideration to the Landlord's submission respecting the *Legislation Act, 2006*, as I have no need to seek statutory direction elsewhere when the Act itself provides sufficient authority to consider the matter at hand.



21. So here, the testimonies and evidence establish, on a balance of probabilities, that the parties entered into a mutual agreement to terminate the tenancy by signing the Agreement dated November 6, 2021, and ending the tenancy on December 6, 2021.
22. In the hearing in respect of section 83, I asked the Tenant how much more time she needed in order to move out. She indicated she would need at least three weeks to move out. As the issuance of this order is quite delayed – beyond the requested three weeks – I am simply ordering the tenancy is terminated and that the Tenant must move out within eleven days of the date of this order.

**It is ordered that:**

1. The tenancy between the Landlords and the Tenant is terminated.
2. The Tenant must move out of the rental unit on or before July 8, 2022.
3. If the unit is not vacated on or before July 8, 2022, then starting July 9, 2022, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlords on or after July 9, 2022.



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Alex Brkic  
Member, Landlord and Tenant Board

**June 27, 2022**  
**Date Issued**

Central-RO  
3 Robert Speck Pkwy, 5th Floor  
Mississauga ON L4Z2G5

The tenant has until July 7, 2022 to file a motion with the Board to set aside the order under s. 77(6) of the Act. If the tenant files the motion by July 7, 2022 the order will be stayed and the Board will schedule a hearing.

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 January 9, 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.