



Order under Section 69
Residential Tenancies Act, 2006

File Number: HOL-10924-21

In the matter of: 686 MEGSON TERRACE
MILTON ON L9T8K4

Between: Raghad Ali Landlord

and

Liza Howell Tenant

Raghad Ali (the 'Landlord') applied for an order to terminate the tenancy and evict Liza Howell (the 'Tenant') because the Landlord requires possession of the rental unit for the purpose of residential occupation. The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on September 9, 2021. The Landlord and the Landlord's Legal Representative, Alaa Nahab, attended the hearing. The Tenant attended and spoke with Duty Counsel prior to the hearing. The Landlord's mother, Amal Sultan ('AS'), attended as a witness for the Landlord.

Determinations:

1. The Landlord gave the Tenant an N12 notice to terminate the tenancy because the Landlord alleges that she, in good faith, requires the rental unit for her mother to live in. The termination date on the N12 notice is August 31, 2021.
2. The Landlord filed an affidavit of her mother in which the Landlord's mother certifies that she in good faith requires the rental unit for a period of at least one year.
3. The Landlord paid the Tenant compensation equal to one month's rent by waiving the rent for August 2021.
4. The remaining issue to be determined by the Board is whether the Landlord has satisfied the "good faith" requirement set out in subsection 48(1) of the *Residential Tenancies Act, 2006* (the 'Act').

Landlord's good faith

5. The test of good faith is genuine intention to occupy the residential unit and not the reasonableness of the landlord's proposal (*Feeney v. Noble* (1994), 19, O.R. (3d) (Div. Ct.) ("Feeney"). As confirmed in subsequent decisions, this legal test remains unchanged

and the “good faith” requirement simply means a genuine intention to occupy the premises (*Salter v. Beljinac* 2001 CanLII 30231 (ONSC DC) (“Salter”). While the good faith of the Landlord remains the test to be applied, I may also draw inferences about the Landlord’s good faith from the Landlord’s conduct and motives (*Fava v. Harrison* 2014 ONSC 3352 (ONSC DC) (“Fava”).

6. The onus is on the Landlord to establish that she, in good faith, requires the rental unit for the purpose of residential occupation by her mother.
7. The Landlord testified that her mother resides in the basement of her 3-bedroom home, along with the Landlord’s 4 children. The basement is damp and cold which is affecting her mother’s existing health conditions. In addition, the house is crowded, and the Landlord’s spouse no longer wants the mother living in the home. The Landlord wishes to have her mother move out and into the rental unit. The Landlord’s mother, AS, also confirmed that she wishes to move out of the basement and into the rental unit. She plans on living there for more than one year.
8. The Tenant argues that the Landlord is not acting in good faith. In support of her position, the Tenant relies on the fact that the Landlord increased the monthly rent by \$200.00 in July 2017. The Tenant paid the rent increase until December 2017 when she came to learn that the increase was not allowable under the Act. The Tenant also testified that the Landlord wanted her to sign a new lease in April 2018, but she refused. She then received an email saying that a notice of termination would be delivered to her. However, she then received a call from the Landlord indicating that she can stay in the rental unit at the same rent. The Tenant also argues that it is not viable for the Landlord’s mother to live in the rental unit given her old age and health issues that affect her ability to climb up and down stairs and live independently.
9. I do not find that the rent increase in 2017 establishes that the Landlord is acting in bad faith. I say this because the incident occurred 3 years ago and since the Tenant stopped paying the increased rent, the Landlord allowed her to remain at her current rent and did not attempt to increase the rent further. With regards to whether it is viable for the Landlord’s mother to live in the rental unit, the reasonableness of the Landlord’s proposal is not the test for good faith.
10. Based on all the evidence, I am satisfied on a balance of probabilities that the Landlord’s mother genuinely intends to occupy the rental unit for the purpose of residential occupation. There was insufficient evidence of the Landlord’s conduct or motives from which I would draw a negative inference as to whether the Landlord, in good faith, requires the rental unit for the purposes of residential occupation.

Section 83

11. I have considered all of the disclosed circumstances in accordance with subsection 83(2) of the *Residential Tenancies Act, 2006* (the 'Act'), and find that it would not be unfair to postpone the eviction until December 31, 2021 pursuant to subsection 83(1)(b) of the Act.

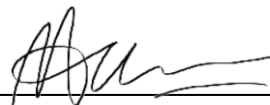
12. The Tenant testified that she is a single mother working 3 jobs. She is working with a real estate agent to find another place, but rental prices are very high and there is a lot of competition in the rental market. She has lived in the property since 2016 and in Milton for the past 15 years. The Landlord did not establish sufficient urgency. Under these circumstances, postponing the eviction will allow the Tenant sufficient time to secure alternative housing.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated, as of December 31, 2021. The Tenant must move out of the rental unit on or before December 31, 2021.
2. The Tenant shall pay to the Landlord \$1,971.95, which represents compensation for the use of the unit from September 1, 2021 to November 5, 2021, less the rent deposit and interest the Landlord owes on the rent deposit.
3. The Tenant shall also pay to the Landlord \$59.18 per day for compensation for the use of the unit from November 6, 2021 to the date the Tenant moves out of the unit.
4. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
5. If the Tenant does not pay the Landlord the full amount owing on or before December 31, 2021, the Tenant will start to owe interest. This will be simple interest calculated from January 1, 2022 at 2.00% annually on the balance outstanding.
6. If the unit is not vacated on or before December 31, 2021, then starting January 1, 2022, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 1, 2022.

November 5, 2021

Date Issued



Khalid Akram

Member, Landlord and Tenant Board

Head Office
777 Bay Street, 12th Floor
Toronto Ontario M5G2E5

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 1, 2022 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.