



Order under Section 69
Residential Tenancies Act, 2006

File Number: EAL-95137-21

In the matter of: 316 CHURCH STREET
NAPANEE ON K7R3P1

Between: Paul Vine Landlord

and

Colleen Mcewen Tenant

Paul Vine (the 'Landlord') applied for an order to terminate the tenancy and evict Colleen Mcewen (the 'Tenant') because the Landlord requires possession of the rental unit for the purpose of residential occupation.

This application was heard by video conference on August 18, 2021.

The Landlord and the Tenant attended the hearing.

Determinations:

1. The Landlord applied to the Board for an order terminating the tenancy because the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation.
2. As a preliminary issue, the Tenant submitted that the Landlord neglected to serve upon her a valid N12 Notice and, furthermore, failed to (i) provide an affidavit or declaration, or (ii) to pay to the Tenant the necessary compensation on or before the termination date as required under the *Residential Tenancies Act, 2006* (the 'Act').
3. Pursuant to section 48 of the Act, the N12 notice must be provided on the proper form, must give the tenant at least 60 days' notice with a termination date that is the day a period of the tenancy ends, and it must be properly served upon the tenant.
4. Section 48.1 of the Act requires a landlord who has served an N12 notice to give the tenant compensation in the amount of one month of rent. Section 55.1 of the Act requires a landlord who is obligated to give compensation under s.48.1 to pay that compensation no later than the termination date in the N12 notice.

5. Subsection 72(1) of the Act requires the Landlord to file a declaration or an affidavit sworn by the person who personally requires the rental unit, certifying that the person in good faith requires the rental unit for his or her own personal use for at least one year.
6. The Landlord did not contest that he delivered a handwritten "N12 Notice" to the Tenant on April 10, 2021, or that the termination date of June 11, 2021 was not on the day the tenancy period ended.
7. The Landlord did not dispute that he failed to serve an amended N12 Notice on the Tenant, which was completed on the proper form, and filed with the Board.
8. With respect to the required compensation to be paid on or before the termination date, the Landlord acknowledged that he had not complied with this obligation.
9. Finally, the Landlord submitted that he did not file a declaration or affidavit with the Board, affirming his good faith intent to occupy the unit for at least one year.
10. Therefore, based on the submissions of the parties, I find that the Landlord has failed to comply with the Act.
11. The Landlord's application shall be dismissed.

It is ordered that:

1. The Landlord's application is dismissed.

November 18, 2021
Date Issued

Elle Venhola
Elle Venhola
Member, Landlord and Tenant Board

Eastern-RO
255 Albert Street, 4th Floor
Ottawa ON K1P6A9

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