



**Order under Section 69
Residential Tenancies Act, 2006**

Citation: Fournier v Sergeev, 2023 ONLTB 25754

Date: 2023-03-20

File Number: LTB-L-034832-22

In the matter of: 15 BALLPARK RD GD 0 CAPREOL
ON P0M1H0

Between: Jennifer-lynn Fournier Landlord

And

Anya Sergeev Tenant

Jennifer-lynn Fournier (the 'Landlord') applied for an order to terminate the tenancy and evict Anya Sergeev (the 'Tenant') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

This application was heard by videoconference on March 7, 2023 at 09:00 am.

The Landlord Representative Monique Laderoute, the Landlord and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On June 20, 2022, the Landlord gave the Tenant an N12 notice of termination (N12 Notice) deemed served on the same date with the termination date of August 31, 2022. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation for themselves.

4. The Landlord compensated the Tenant an amount equal to one month's rent on August 23, 2022.
5. There is no last month's rent deposit.

Good faith

6. On the basis of the sworn declaration filed with the Board and the Landlord's testimony, I find that the Landlord genuinely intends to move into the rental unit after the Tenant

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vacates and therefore in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year.

7. Specifically, the Landlord testified that her parents will be moving into their current residence and she and her daughter will be moving into the rental unit which is located nearby, thereby facilitating her parents assistance with childcare.
8. The Tenant testified that it was their belief that the Landlord had served the N12 Notice in bad faith and for this reason she tore up the compensation cheque that the Landlord had sent. However, they had no evidence or submissions to substantiate the claim that the Landlord had served the N12 Notice in bad faith.

Relief from eviction

9. 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 May 31, 2023 pursuant to subsection 83(1)(b) of the Act for the following reasons.
10. The Tenant testified that they had been attempting to find a new rental property to no avail and given they were a single parent to a 3-year-old daughter it was imperative she found a rental property close to her daughter's daycare. For these reasons she requested a delay of 90 days.
11. In response the Landlord Representative submitted that the Tenant had over a year to find a new rental property and that a delay of 90 days would prejudice the Landlord. However, they also submitted they would be open to a delay of 60 days.
12. Given the testimony and submissions above, I am satisfied that delaying eviction to May 31, 2023 would not be unfair as it will afford the Tenant the opportunity to find a new rental property and if necessary find a new daycare for their child, while at the same time not unduly prejudicing the Landlord.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 31, 2023.
2. The Landlord must provide a new cheque equal to one months rent to the Tenant before May 31, 2023.
3. If the unit is not vacated on or before May 31, 2023, then starting June 1, 2023, the Landlord 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 Landlord on or after June 1, 2023.

March 20, 2023**Date Issued**

Kelly Delaney

Member, Landlord and Tenant Board

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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 of the Tenant expires on December 1, 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.

