



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

**Citation:** Hazelview Properties v Bastien Trambly, 2023 ONLTB 26380

**Date:** 2023-03-22 **File**

**Number:** LTB-L-008445-23

**In the matter of:** 1506, 2870 CEDARWOOD DR Ottawa  
ON K1V8Y5

**Between:** Hazelview Properties Landlord

**And**

Chloee Bastien Trambly Tenant

Hazelview Properties (the 'Landlord') applied for an order to terminate the tenancy and evict Chloee Bastien Trambly (the 'Tenant') because the Tenant gave notice to terminate the tenancy.

A hearing was held to consider this application.

This application was heard by videoconference on March 6, 2023. The Landlord's agent Sylvie Perrault, the Landlord's legal representative Allan Kouri, the Tenant and the Tenant's Guarantor Melanie Bastien attended the hearing.

### **Determinations:**

1. On November 2, 2022, the Tenant gave the Landlord notice to terminate the tenancy effective December 31, 2022. The N9 notice lists Chloee Bastien Trambly, Melanie Bastien and Jessy Fournier as Tenants. The notice was only signed by Chloee Bastien Trambly.
2. The Landlord's L3 application was filed on January 23, 2023.
3. On January 30, 2023 the Board issued an endorsement to the parties directing the matter to a hearing as only one of the three named Tenants signed the N9 notice.

4. At the hearing, the Landlord confirmed that Melanie Bastien is a Guarantor to the tenancy and that Jessy Fournier is an occupant of the rental unit. As such, the application is amended to remove Melanie Bastien and Jessy Fournier as Tenants and/or respondents to the application.
5. The parties agree that the Tenant vacated the rental unit on December 31, 2022 as per the N9 notice. As of the hearing date, the occupant, Jessy Fournier continues to reside in the unit.

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6. The Landlord's agent stated that the Landlord discovered that the occupant was still residing in the rental unit during the first week of January 2023. The Tenant testified that upon vacating she asked the occupant to leave the unit, but he refused.
7. The Landlord requested an order terminating the tenancy with a sheriff clause ordering the occupant to be evicted from the rental unit.

Analysis:

8. The Landlord's application is filed pursuant to section 77 of the *Residential Tenancies Act, 2006* (The Act) which states:

**77** (1) A landlord may, without notice to the tenant, apply to the Board for an order terminating a tenancy and evicting the tenant if,

- (a) the landlord and tenant have entered into an agreement to terminate the tenancy; or
- (b) the tenant has given the landlord notice of termination of the tenancy.

9. There is no dispute that the Tenant vacated the rental unit pursuant to the notice of termination given and as such, I find that the tenancy has terminated effective December 31, 2022.

10. With respect to the current occupant residing in the rental unit section 100 of the Act states in part:

**100** (1) If a tenant transfers the occupancy of a rental unit to a person in a manner other than by an assignment authorized under section 95 or a subletting authorized under section 97, the landlord may apply to the

Board for an order terminating the tenancy and evicting the tenant and the person to whom occupancy of the rental unit was transferred.

11. As of the hearing date, the Landlord had not filed an A2, which is the correct application for an order evicting an unauthorized occupant
12. However, based on the evidence before the Board, I am not satisfied that the Tenant in fact transferred occupancy of the rental unit to the occupant Jessy Fournier, which is the type of circumstance addressed by section 100(1) of the Act. The evidence of both parties indicates that the Tenant vacated the unit in accordance with her notice and that the occupant refused to vacate the unit.
13. Therefore, the occupant is perhaps best described as a squatter who has no lawful right to continue to occupy the rental unit after the tenancy terminated **File Number: LTB-L-008445-23**

effective December 31, 2022 and does not enjoy any of the protections from eviction provided to tenants in the Act.

14. While I appreciate the concerns of the Landlord, the L3 application filed pursuant to section 77 of the Act is not the appropriate application to evict unauthorized individuals or occupants residing in the unit. As such, the Landlord's request for an order evicting the occupant is denied

**It is ordered that:**

1. The tenancy between the Landlord and Tenant is terminated as of December 31, 2022, the day the Tenant vacated the rental unit.

**March 29, 2023**

**Date Issued**

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Fabio Quattrociochi

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 1-888-3323234.

