

Order under Section 69
Residential Tenancies Act, 2006

File Number: CEL-98059-21

In the matter of: UPPER LEVEL, 74 VILLAGE LAKE CRESCENT
BRAMPTON ON L6S6K1

Between: Amrik Natt Landlords
Avtar Natt

and

Beverly Riley Tenant

Amrik Natt ('AN') and Avtar Natt (the 'Landlords') applied for an order to terminate the tenancy and evict Beverly Riley (the 'Tenant') because the Landlords require possession of the rental unit for the purpose of residential occupation by their son. The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard in Passcode: 994 6973 8312# on September 9, 2021.

The Landlords, the Landlords' representative, S. Waslat, and the Tenant attended the hearing. S. Basra ('SB'), attended a portion of the hearing as a witness.

Determinations:

1. The hearing on September 9, 2021 focused on the preliminary question of whether the compensation required to be paid under section 48.1 of the *Residential Tenancies Act, 2006* (the 'Act') further to the Landlords' N12 notice of termination was in fact provided to the Tenant in advance of the March 14, 2021 termination date in the notice.
2. The Tenant acknowledged receipt of the N12 notice of termination but testified that she received no compensation from the Landlord until she received a cheque in the mail in an envelop postmarked May 6, 2021 (Refer Exhibit 1, being page 39 of materials submitted by the Tenant to the Board).
3. Exhibit 1 shows outside of an envelop addressed to the Tenant, with a return address of the office of the Landlords' representative, postmarked May 6, 2021. The Exhibit also shows a copy of a cheque to the Tenant numbered 290 in the amount of \$2,200.00, which is the amount of one month's rent, dated March 10, 2021. The Landlord acknowledged that this was the cheque which he had signed for compensation and which he had understood had been sent by the office of the Landlords' representative prior to the March 14, 2021 termination date in the N12 notice of termination.

4. Both parties referred to a number of text messages exchanged between the Landlord AN and the Tenant. In one, dated April 5, 2021, the Landlord referred to compensation having been provided for the month beginning March 15th. The Tenant acknowledged that she did not contact the Landlord AN to say she had not received compensation as she was confused about what he was referring to.
5. The Landlord repeatedly offered compensation, subsequent to the March 14, 2021 termination date, in the form of rental waivers. The Tenant did not accept these offers and continued to pay rent.
6. The Tenant eventually cashed the Landlord's cheque number 290 as she was concerned that it would become stale-dated or that the Landlord would somehow stop payment on it.
7. SB, who was employed as Office Manager with the office of the Landlords' representative, testified that he remembered receiving the cheque numbered 290 from the Landlord AN on Saturday, March 6, 2021 and that he mailed it in the normal way the following Monday, March 8, 2021.
8. While I find that the texts from the Landlord about compensation after March 14, 2021 would be consistent with compensation not yet having been paid, I need not make a determination in that regard. I find it more likely than not that the Tenant did not receive the compensation cheque until after the May 6, 2021 postmark date. Regardless of whether this was the fault of Canada Post or some other oversight, the fact remains that the compensation was not provided to the Tenant until after March 14, 2021.
9. In the result, subsection 83(4) of the Act prohibits me from issuing the requested termination order and the Landlords' application must be dismissed.

It is ordered that:

1. The Landlords' application for termination of the tenancy is dismissed.



November 29, 2021
Date Issued

Lynn Mitchell
Member, Landlord and Tenant Board

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3 Robert Speck Pkwy, 5th Floor
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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.