



Order under Section 69
Residential Tenancies Act, 2006

File Number: CEL-93745-20

In the matter of: MAIN FLOOR, 4 JUDITH CRESCENT
BRAMPTON ON L6S3J4

Between: Raju Nadimpalli Padmanabha Landlord

and

Abdul Ameer Hussain Tenants
Adiba Magan

Raju Nadimpalli Padmanabha (the 'Landlord') applied for an order to terminate the tenancy and evict Adiba Magan and Abdul Ameer Hussain (the 'Tenants') because the Landlord has entered into an agreement of purchase and sale of the rental unit and the purchaser requires possession of the rental unit for the purpose of residential occupation.

This application was heard by videoconference on May 21, 2021. The Landlord, the Landlord's Legal Representative, Sarah Teal, and the Purchaser, Nishan Singh ('NS') attended the hearing. the Tenants attended the hearing.

Determinations:

1. NS signed an agreement with the Landlord to purchase the residential complex and he in good faith requires possession of the rental unit for the purpose of residential occupation.
2. The residential complex contains 2 residential units: a main and basement unit. The Tenants occupy the main unit.
3. The sale was completed on May 20, 2020. NS is currently the landlord. For the purpose of this order, I refer to him as NS or the Purchaser.
4. The Landlord has filed an affidavit sworn by NS certifying that he in good faith requires the rental unit for his own personal use.
5. The remaining issue to be determined by the Board is whether the Landlord has satisfied the "good faith" requirement set out in subsection 49(1) of the *Residential Tenancies Act, 2006* (the 'Act').

Good faith

6. The onus is on the Landlord to establish that the Purchaser requires the rental unit for the purpose of residential occupation.
7. 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 sincere intention to occupy the rental unit. The Landlord may also have additional motives for selecting a particular rental unit, but this does not affect the good faith of Landlord (*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").
8. NS testified that this is the first home he's purchased. He intends to move into the rental unit to live there with his family. He is currently homeless and couch surfing with friends. He intends to move as soon as vacant possession is provided.
9. The Tenants suggest bad faith because only they were given an N12 notice terminating their tenancy while the basement tenants remain. I do not find that this rises to the level of bad faith. At the time the Landlord gave the Tenants the N12, the basement tenancy was for a fixed term. The Landlord could not terminate the basement tenancy prior to the expiration of the fixed term. In addition, the Landlord's motives of selecting a particular rental unit is largely irrelevant.
10. Based on all the evidence, I am satisfied on a balance of probabilities that the NS genuinely intends to occupy the rental unit for the purpose of residential occupation. There was insufficient evidence of the Landlord's or the Purchaser's conduct or motives from which I would draw a negative inference as to whether the Purchaser desires, in good faith, to occupy the property.

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 July 31, 2021 pursuant to subsection 83(1)(b) of the Act.
12. While the Tenants requested a delay of 4 to 6 months citing mother-in-law health issues, limited financial means and difficulties finding a place, it would be unfair to grant such a lengthy extension. While I can appreciate the Tenant's circumstances, I also consider that the Purchaser is currently homeless and couch surfing. I note that it has been over a year since the Tenants received the notice of termination.

It is ordered that:

1. The tenancy between the Landlord and the Tenants is terminated, as of July 31, 2021. The Tenants must move out of the rental unit on or before July 31, 2021.

2. The Tenants shall pay to the Landlord \$175.00 for the cost of filing the application.
3. If the Tenants do not pay the Landlord the full amount owing on or before July 31, 2021, they will start to owe interest. This will be simple interest calculated from August 1, 2021 at 2.00% annually on the balance outstanding.
4. If the unit is not vacated on or before July 31, 2021, then starting August 1, 2021, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
5. 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 August 1, 2021.

June 24, 2021

Date Issued



Khalid Akram

Member, Landlord and Tenant Board

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Mississauga ON L4Z2G5

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 February 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.