



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

**File Number:** CEL-99763-21

**In the matter of:** UNIT 71, 5030 HEATHERLEIGH AVENUE  
MISSISSAUGA ON L5V2G7

**Between:** Ping Yao Hsieh Landlord

**and**

Albert George Norton Tenant

Ping Yao Hsieh (the 'Landlord') applied for an order to terminate the tenancy and evict Albert George Norton (the 'Tenant') because the Landlord requires possession of the rental unit for the purpose of residential occupation. The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This hearing was held by videoconference on July 15, 2021. The Landlord, the Landlord's representative, Peter Balatidis, and the Tenant attended the hearing.

**Determinations:**

1. On April 9, 2021, the Landlord served the Tenant with an N12 Notice of Termination (N12) with a termination date of June 14, 2021. The N12 seeks termination of the tenancy on the ground that the Landlord requires the rental unit for residential occupation.

Good faith

2. The N12 was served pursuant to section 48 of the Residential Tenancies Act, 2006 (Act). Section 48(1) requires that, in order to be successful in this application, the Landlord must establish that at the time of the service of the N12 Notice, she required, in good faith, the unit for residential use.

3. In *Feeney v. Noble*, 1994 CanLII 10538 (ON SC), the Court held that the test of good faith is genuine intention to occupy the premises and not the reasonableness of the Landlord's proposal. This principle was upheld in *Salter v. Beljinac* 2001 CanLII 40231 (ON SCDC), where the Court held that the "good faith" requirement simply means that the Landlord sincerely intends 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 the Landlord's notice."

4. In the more recent case of *Fava v. Harrison*, [2014] O.J No. 2678 ONSC 3352 (Ont.Div.Ct.) the Court determined that while the motives of the Landlord are, per Salter, “largely irrelevant”, the Board can consider the conduct and motives of the Landlord to draw inferences as to whether the Landlord desires, in good faith to occupy the property.”

5. The Landlord testified, and also provided a signed declaration dated April 15, 2021, that she needed her residence at unit 71 5030 Heatherleigh Avenue in Mississauga for her own personal use for a period of not less than a year.

6. The Tenant did not dispute the Landlord’s genuine intention to occupy the premises and offered no evidence that her application was not made in good faith.

7. I am satisfied, based on the Landlord’s evidence, that she genuinely intends to live in the unit for at least one year. Therefore, I find that the Landlord in good faith requires possession of the rental unit for the purpose of the residential occupation for a period of at least one year.

#### Compensation

8. Section 48.1 of the Act requires a landlord to compensate a tenant in an amount equal to one month’s rent if the landlord, in good faith, requires the rental unit for the purpose of residential occupation. Section 55.1 of the Act requires this compensation to be paid no later than on the termination date specified in the notice of termination of the tenancy. In addition, subsection 83(4) of the Act provides that no eviction order shall be issued in a proceeding regarding a termination of a tenancy for the purpose of residential occupation unless the landlord has complied with section 48.1 of the Act.

9. The Landlord testified that the rent for the period of April 15, 2021 to May 14, 2021 was waived for the purpose of providing the Tenant with one month’s rent compensation. The Tenant confirmed this arrangement through his testimony and advised that he had been compensated one month’s rent before the termination date of June 14, 2021.

10. I am satisfied that the Landlord met her obligation to pay the Tenant compensation equal to one month’s rent in accordance with section 48.1 of the Act.

#### Relief from Eviction

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 October 14, 2021 pursuant to subsection 83(1)(b) of the Act.

12. The Tenant testified that he has searched for alternate rental units; however, with four young children to accommodate, and a constrained and expensive rental market as a result of COVID, he has not been successful. As the sole financial provider for his family, the Tenant further testified that his difficult financial situation results in very few accommodation options. The Tenant added that he believed that his search for a rental unit was even more difficult as a result of some potential landlords discriminating against his large Muslim family.

13. I find that, although the Landlord in good faith requires possession of her rental unit for her residential occupation, postponing the Tenant's eviction until October 14, 2021 will provide the Tenant with more time in a less restrictive COVID environment to secure a rental unit that can accommodate his wife and four young children. I find that this postponement would not be unfair to the Landlord.

**It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated as of October 14, 2021. The Tenant must move out of the rental unit on or before October 14, 2021.
2. The Tenant shall continue to pay the Landlord monthly rent of \$2040.00 until the termination of the tenancy.
3. If the unit is not vacated on or before October 14, 2021, then starting October 15, 2021, 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 October 15, 2021.

**July 30, 2021**

**Date Issued**



Frank Ebner

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.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on April 15, 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.