



Order under Section 69
Residential Tenancies Act, 2006

File Number: TEL-16233-21

In the matter of: 425 BELLEVUE STREET
PETERBOROUGH ON K9H5G5

Between: Kerrie Morley Landlords
Victoria Morley
Sam Hall

and

Ashley Waizenhofer Tenants
Nickolas Tzavaras

Kerrie Morley, Victoria Morley and Sam Hall (the 'Landlords') applied for an order to terminate the tenancy and evict Nickolas Tzavaras and Ashley Waizenhofer (the 'Tenants') because the Landlords require possession of the rental unit for the purpose of residential occupation. The Landlords also claimed compensation for each day the Tenants remained in the unit after the termination date.

This application was heard by videoconference on August 3, 2021. Kerrie Morley and Victoria Morley attended the hearing on behalf of the Landlords. The Tenant Ashley Waizenhofer attended the hearing on behalf of the Tenants, along with the Tenant's Legal Representative, K. Anderson.

Preliminary Issue:

1. The Landlords served a N12 Notice of Termination (the 'N12 Notice') upon the Tenants on February 27, 2021 seeking to terminate the tenancy on April 30, 2021, as the Landlords' spouse intended to move into the rental unit and occupy it for at least one year.
2. The Tenant's Legal Representative submitted that the Landlord had failed to provide compensation to the Tenant in accordance with section 48.1 of the *Residential Tenancies Act, 2006* (the 'Act'). The Tenant's Legal Representative also submitted that the Landlord had failed to file an affidavit or a declaration from the individual who sought to occupy the rental unit, as required by subsection 72(a) of the Act. Finally, the Tenant's Legal Representative submitted that the N12 Notice was vague and confusing, as it had two separate dates included.

3. In response, the Landlords agreed that no compensation had been provided to the Tenant as of the date of the hearing. The Landlord KM pointed out that she was not a lawyer and she had not realized that the compensation had to be paid prior to the termination date in the N12 Notice.
4. Section 48.1 of the Act states the following:

A landlord shall compensate a tenant in an amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if the landlord gives the tenant a notice of termination of the tenancy under section 48.
5. Section 55.1 dictates when compensation in section 48.1 is required to be paid,

If the landlord is required to compensate a tenant under section 48.1, 52, 54 or 55, the landlord shall compensate the tenant no later than on the termination date specified in the notice of termination of the tenancy given by the landlord under section 48 or 50.
6. Subsection 83(4) of the Act addresses what the Board must do if compensation is not paid in accordance to the above sections.

The Board shall not issue an eviction order in a proceeding regarding termination of a tenancy for the purposes of residential occupation, demolition, conversion to non-residential rental use, renovations or repairs until the landlord has complied with section 48.1, 52, 54 or 55, as the case may be.
7. The Landlords agreed that no compensation had been paid to the Tenants as required by the subsection 48.1 of the Act.
8. As a result, pursuant to subsection 83(4) of the Act, the Board cannot issue an eviction order in this hearing and must dismiss the Landlord's application in this case.

It is ordered that:

1. The Landlords' application is dismissed.

November 24, 2021
Date Issued



Arnab Quadry
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.