



FEB 6, 2024

Kelly Delaney
Landlord and Tenant Board

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

Citation: Katiraei v Morassa, 2024 ONLTB 11000

Date: 2024-02-06

File Number: LTB-L-027414-23

In the matter of: Main Floor, 288 CONNAUGHT AVE
Toronto ON M2R2L9

Between: Babak Katiraei Landlord

And

Ali Asadi Morassa Tenant

Babak Katiraei (the 'Landlord') applied for an order to terminate the tenancy and evict Ali Asadi Morassa (the 'Tenant') because the Tenant did not pay the rent that the Tenant owes (L1 Application).

The Landlord also applied for an order to terminate the tenancy and evict the Tenants because the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year (L2 Application).

These applications were heard by videoconference on February 1, 2024, at 09:00 am.

Only the Landlord attended the hearing.

As of 09:30 am, the Tenant was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Landlord's evidence.

Determinations:

L1 Application

1. The Landlord served the Tenant with a valid Notice to End Tenancy Early for Non-payment of Rent (N4 Notice). The Tenant did not void the notice by paying the amount of rent arrears owing by the termination date in the N4 Notice or before the date the application was filed.
2. As of the hearing date, the Tenant was still in possession of the rental unit.
3. The lawful rent is \$2,400.00. It is due on the 1st day of each month.
4. Based on the Monthly rent, the daily rent/compensation is \$78.90. This amount is calculated as follows: \$2,400.00 x 12, divided by 365 days.
5. The Tenant has not made any payments since the application was filed.

6. The rent arrears owing to February 29, 2024, are \$38,400.00.
7. The amount of rent arrears owing by the Tenant exceeds the monetary jurisdiction of the Board. Section 207(1) of the *Residential Tenancies Act, 2006* ("Act") limits the monetary jurisdiction of the Board to that of the Small Claims Court. At this time that amount is \$35,000.00, and proceeding with an application with the Board extinguishes any rights the Landlord may have to pursue the full amount owing at the Superior Court. The Landlord was made aware of the Board's monetary jurisdiction and chose to proceed with this application.

L2 Application

8. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated effective February 17, 2024.
11. The Tenant was in possession of the rental unit on the date the application was filed.
12. On December 19, 2022, the Landlord gave the Tenants an N12 Notice of termination deemed served on the same date, with a termination date of February 24, 2023. The Landlord claims they require vacant possession of the rental unit for the purpose of residential occupation for their own use and that of his wife and children.
13. The Landlord has compensated the Tenant an amount equal to one month's rent on December 23, 2022, by cheque for \$2,400.00.

Good faith

14. On the basis of the sworn declaration filed with the Board and Babak Katiraei testimony, I find that the Landlord genuinely intends to move into the rental unit after the Tenants vacate and therefore in good faith requires possession of the rental unit for the purpose of their residential occupation for a period of at least one year.
15. Specifically, the Landlord testified that due to the Tenants continue failure to pay the rent they had been forced to give up their rental property in favour of not defaulting on their mortgage as they could not continue to carry both properties.
16. There is no last month's rent deposit.

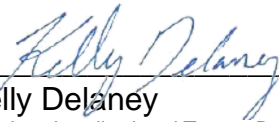
Relief from eviction

17. 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 be unfair to grant relief from eviction pursuant to subsection 83(1) of the Act.
18. Specifically, given the Tenant did not appear, although properly notified, I am satisfied to grant relief would prejudice the Landlord.

It is ordered that:

1. The tenancy between the Landlord and the Tenant is terminated effective February 17, 2024.
2. The Tenant shall pay the Landlord compensation of \$78.90 per day for the use of the unit starting February 2, 2024 until the date the Tenant moves out of the unit.
3. The Tenant shall also pay to the Landlord \$201.00 for the cost of filing the application.
4. The total amount the Tenant owes the Landlord is \$35,201.00.
5. If the Tenant does not pay the Landlord the full amount owing on or before February 17, 2024, the Tenant will start to owe interest. This will be simple interest calculated from February 20, 2024 at 7.00% annually on the balance outstanding.
6. If the unit is not vacated on or before February 17, 2024, then starting February 18, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 February 18, 2024.

February 6, 2024
Date Issued



Kelly Delaney
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 1-888-332-3234.

In accordance with section 81 of the Act, the part of this order relating to the eviction expires on August 18, 2024 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.