



Order under Section 77(8) Residential Tenancies Act, 2006

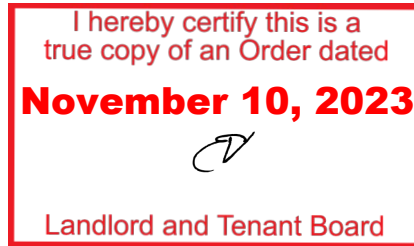
File Number: LTB-L-071152-23-SA
LTB-L-045876-23
LTB-T-070802-23

In the matter of: 8 MYERS LANE
NORTH YORK ON M2H1P8

Between: Yan qun Huang

And

Zahra (Zara) Bibak



Landlord

Tenant

Yan qun Huang (the 'Landlord') applied for an order to terminate the tenancy and evict Zahra (Zara) Bibak (the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy.

The Landlord's application was resolved by order LTB-L-071152-23, issued on September 19, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-071152-23.

The motion was heard by videoconference on November 2, 2023.

The Landlord, the Landlord's Legal Representatives Sarah Teal and Ryan Chen and the Tenant attended the hearing. The Tenant's spouse Kami Hosseini also attended. The Tenant spoke with Duty Counsel prior to the hearing.

The parties before the LTB consented to the following order.

Determinations:

1. The parties agreed to the following order in full and final satisfaction of the set aside motion and of the applications of the Landlord and the Tenant, to the benefit of each party.
2. At the hearing, the Tenant stated that she was willing, and was planning, to vacate the rental unit. I commenced the hearing by conducting a case conference to assist the parties in finalizing the terms of an order which would resolve the issues before the Board.

Background

3. On May 31, 2023, the Landlord served an N12 notice of termination (the 'N12 Notice') for landlord's own use with a date of termination of August 9, 2023.
4. On June 8, 2023, the Landlord filed an L2 application (LTB-L-045876-23), seeking to terminate the tenancy and evict the Tenant based on the N12 Notice.
5. On June 9, 2023, the parties entered into an agreement to terminate the tenancy by signing an N11 Agreement (the 'N11'), with a termination date of August 31, 2023.

6. The N11 included conditions. The Landlord would waive three months of rent for the period June 10th to July 9th; July 10th to August 9th and August 10th to September 9th, 2023. The Tenant agreed to return to the Landlord the compensation cheque given to her by the Landlord in fulfilment of the N12 Notice requirements and in exchange for the waiver of rent.
7. Shortly afterwards, the parties amended the agreement to extend the termination date to September 9, 2023. These revisions were initialled by both parties.
8. On June 10, 2023, the Landlord filed an Advance Resolution Request with the LTB with respect to the L2 application indicating that, having entered into an N11 agreement to terminate the tenancy, the parties had “agreed on terms to fully resolve” the L2 application.
9. On September 8, 2023, the day before the termination date, the Tenant filed a T2 application (LTB-T-070802-23) alleging that the Landlord harassed or coerced her into signing the N11. The Tenant sought an additional six months of occupancy as the remedy.
10. On September 9, 2023, the day the Tenant was to vacate, the Landlord filed an L3 application, seeking to terminate the tenancy in accordance with the signed N11. An ex parte order granting the application was issued on September 19, 2023.
11. On September 22, 2023, the Tenant brought this motion to set aside the ex parte order alleging that the Landlord misrepresented the N11 agreement. In her motion, the principal claim is that the Landlord’s mother-in-law was living in another country and had shown no signs of relocating to reside in the unit. The Landlord’s response seems to be that her mother-in-law will relocate to Ontario as soon as the Tenant’s unit is vacant.

The Consent Terms

12. The parties agreed that the Tenant would have 60 days to vacate, with the tenancy to terminate on January 9, 2024. Additionally, the Landlord will withdraw the L2 application and the Tenant will withdraw the T2 application.
13. The Tenant has not paid the rent for the period between September 10, 2023 to November 9, 2023. Payment of rent in the interim would be a condition. The Landlord has post-dated cheques from the Tenant up to and including the period ending on December 9, 2023. The parties agreed that the Landlord may deposit these cheques to cover the rent charges.
14. Some confusion arose at the hearing about the existence of a last month’s rent deposit. The Tenant was certain that the last month of rent was covered by a last month’s rent deposit. In the L2 application, the Landlord claimed there was no such deposit. The N11 agreement is silent about the issue.
15. Unfortunately, neither party submitted a copy of the lease agreement for reference. The parties are encouraged to refer to the lease agreement and any other documentation they may have to resolve this impasse prior to November 30, 2023. In the meantime, the Tenant’s obligation to pay the December 10, 2023 to January 9, 2024 rent must be contingent upon the application of a last month’s rent deposit that may be in the possession of the Landlord.
16. Regarding the withdrawal of the parties’ applications, in accordance with subsection 200(4) of the *Residential Tenancies Act, 2006*, I consent to the withdrawal of both the L2 and T2 applications.

17. I find it reasonable to include a standard term relating to daily compensation in the event the Tenant does not vacate the rental premises by January 9, 2024.

It is ordered on consent that:

1. The motion to set aside Order LTB-L-071152-23, issued on September 19, 2023, is granted. The order is set aside and cannot be enforced.
2. Order LTB-L-071152-23 is replaced with the following.
3. The tenancy between the Landlord and the Tenant is terminated on January 9, 2024. The Tenant must move out of the unit on or before January 9, 2024.
4. If the unit is not vacated on or before January 9, 2024, then starting January 10, 2024, 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 January 10, 2024.
6. The Tenant shall pay to the Landlord the lawful rent owing from September 10, 2023 to November 9, 2023, in full on or before November 10, 2023.
7. The Tenant shall pay to the Landlord the December 2023 rent in full and on or before December 10, 2023, subject to the application of a last month's rent deposit that may currently be in the possession of the Landlord.
8. The Tenant shall also pay the Landlord compensation of \$78.90 per day for the use of the unit starting January 10, 2024 until the date the Tenant moves out of the unit.
9. In the event that the Tenant does not comply with the terms in paragraphs 6 and/or 7 of this order by the dates stipulated, the Landlord may make a request to the LTB for an earlier termination of the tenancy and eviction date pursuant to section 78 of the *Residential Tenancies Act, 2006*. The Landlord must make any such application no later than 30 days after any such breach of the provisions contained in this order.
10. The Landlord's application LTB-L-045876-23 is dismissed.
11. The Tenant's application LTB-T-070802-23 is dismissed.

November 10, 2023
Date Issued



Elle Venhola
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.