



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

**File Number:** CEL-00704-21

**In the matter of:** 314, 174 HURONTARIO STREET  
COLLINGWOOD ON L9Y2M2

**Between:** Chris Millsap Landlord

**and**

Mike Miller Tenant

Chris Millsap (the 'Landlord') applied for an order to terminate the tenancy and evict Mike Miller (the 'Tenant') because the Landlord intends to demolish the rental unit. The Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on September 23, 2021. The Landlord attended and was represented by Ciara MacMillan. The Tenant attended and spoke with Duty Counsel prior to the hearing.

**Determinations:**

1. The application is based on a Notice to End the Tenancy (form 'N13') because the Landlord requires the rental unit to be vacated in order to demolish it. The N13 was issued pursuant to s. 50 (1)(a) of *the Residential Tenancies Act, 2006* (the 'Act').
2. I am satisfied that the Landlord has obtained the necessary permits for this work.
3. The Landlord has delivered to the Tenant, a compensation cheque in the amount of \$2,228.28, equivalent to three months' rent, as required by s. 52 (1) of the Act.
4. There is no dispute about the makeup of the rental complex, it contains 31 residential units and two commercial units. The Tenant occupies unit 314.
5. There is also no dispute that the Landlord purchased the building in April, 2021 and has undertaken to complete significant and extensive renovations to the interior of the building. The renovations include gutting the 31 residential units and replacing all flooring, plumbing, electrical, fixtures, cabinetry and HVAC systems as set out in the Landlord's N13.

6. The Tenant has raised the issue of whether or not the work constitutes a demolition (as specified in the Notice of Termination) or a renovation.
7. The Landlord's oral testimony is that the building cannot be demolished in its entirety because it is a protected heritage building, and it abuts/forms part of a neighbouring building.
8. The Landlord provided a copy of the floor plan for the Tenant's unit. Under cross examination by the Tenant, the Landlord admitted that the unit's exterior walls would remain in place, the front door will remain in the same place, and the size and location of amenities will not change.
9. Both the Landlord and Tenant submitted a copy of the Building Permit. It is classified on the permit as a "Renovation."
10. The difference between a renovation and demolition is not defined in the Act. However, the key issue in the Landlord's application to the Board is whether the work constitutes a renovation or a demolition for the purposes of s. 50(1) of the Act.
11. Under s. 50(3) of the Act, the Tenant may exercise a right of first refusal on a **renovated** unit and return to the unit at the same rent. It is the Tenant's evidence that he wants to stay in his unit because there is a lack of affordable housing in the area, and he would lose his rent subsidy should he move.
12. In the situation where the rental unit continues to exist, albeit greatly improved, it is possible for the Tenant to exercise a right of first refusal, because the rental unit is still there. The Tenant may move back and continue the tenancy. Where the rental unit is gone, it is not possible for the Tenant to move back because it no longer exists. The fact that the Act distinguishes between renovations and demolitions by the Tenant's right of first refusal shows the intention of these sections of the Act is to preserve the tenancies where it is possible to do so.
13. Accordingly, a project will be defined as a renovation under the Act in a case where it is possible for the Tenant to move back into the unit, and a project will be defined as a demolition where it is not possible for the Tenant to move back into the unit.
14. This project is a renovation of the existing unit, not a demolition, and the Landlord's application must be dismissed.

**It is ordered that:**

1. The Landlord's application is dismissed.
2. The Tenant shall return/pay to the Landlord \$2,228.28, the compensation the Landlord paid to the Tenant.

3. If the Tenant does not pay the Landlord the full amount owing on or before January 16, 2022, the Tenant will start to owe interest. This will be simple interest calculated from January 17, 2022 at 2.00% annually on the balance outstanding.

**January 5, 2022**

**Date Issued**



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Dawn King

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.