



Order under Section 69
Residential Tenancies Act, 2006

File Number: CEL-01892-21

In the matter of: 470 CRAWFORD STREET
PORT ELGIN ON N0H2C2

Between: Steven Harris
HMG C/o Wesley Greenwood

Landlords

and

Kristen Tschirhart

Tenant

Steven Harris and HMG C/o Wesley Greenwood (the 'Landlords') applied for an order to terminate the tenancy and evict the Tenant Kristen Tschirhart (the 'Tenant') because the Landlord required the rental unit for the purpose of residential occupation for their personal use.

This application was heard by videoconference on September 23, 2021. The Landlord was represented by Agent Amy Jones. The Tenants, Kristen Tschirhart and Joan Tschirhart, attended and consulted with Duty Counsel prior to the hearing.

Determinations:

1. The application is dismissed because the Landlord did not pay the Tenant the compensation required for this application under the *Residential Tenancies Act, 2006* (the 'Act') and because the Landlord did not provide a declaration or affidavit.
2. The Landlord served the Tenant a Notice of Termination (N12) under section 48(1) of the *Act* on May 26, 2021 because the Landlord required the rental unit for personal use for the purpose of residential occupation. The termination date noted in the N12 is July 31, 2021.
3. Section 48.1 of the *Act* requires the Landlord to pay compensation to the Tenant in the amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant **on or before the date of termination** as identified in the Notice of Termination (*emphasis added*).
4. The Tenant stated she has not received the compensation owed. The Landlord's Agent had no evidence that compensation has been paid.
5. Section 72(1.1) of the *Act* requires the Landlord provide to the Board an affidavit sworn by the person who personally requires the rental unit certifying that the person in good faith requires the rental unit for his or her own personal use.

6. As of the date of hearing, no such affidavit has been filed with the Board.
7. The requirement of compensation and the affidavit are statutory requirements of the Act, and no eviction may be ordered if these requirements are not met in accordance with the Act.

It is ordered that:

1. The Landlord's application is dismissed.

November 1, 2021

Date Issued



Dawn King

Member, Landlord and Tenant Board

Central-RO
3 Robert Speck Pkwy, 5th Floor
Mississauga ON L4Z2G5

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