



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

Citation: Wania v Domingo-guilarte, 2024 ONLTB 61528

Date: 2024-08-27

File Number: LTB-L-077973-23

In the matter of: 1598 EWALD RD
MISSISSAUGA ON L5G4C3

Between: Xerxes Wania Landlords
Charis Wania

And

Lourdes Domingo-guilarte Tenant

Xerxes Wania and Charis Wania (the 'Landlords') applied for an order to terminate the tenancy and evict Lourdes Domingo-guilarte (the 'Tenant') because the Landlords require possession of the rental unit in order to demolish the unit.

The Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on August 13, 2024.

Only the Landlords and their representative Shellyann Pereira attended the hearing.

As of 9:28a.m., 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 Landlords' evidence.

It is determined that:

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated September 7, 2024.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On September 25, 2023, the Landlords gave the Tenant an N13 notice of termination with the termination date of February 11, 2024. The Landlords claim vacant possession of the rental unit is required for demolition.
4. The Landlord Xerxes Wania ('X.W') testified that the Landlords sold their previous home two years ago. The Landlords did that because the house was no longer the right fit for them because X.W is semi-retired, was in a significant accident that resulted in numerous injuries, their children moved out, and the house was larger than the Landlords need. X.W testified that they purchased the rental unit with the intention to demolish it and construct a home that suits their needs.

5. The Landlords submitted into evidence a building permit for their new home, a site grading plan, an access modification permit, a declaration that was filled out to get a demolition permit, and other supporting documents.
6. On the basis of the testimony of X.W and the Landlords supporting documents I find that the Landlords require the rental unit to be vacated because the Landlords in good faith intend to demolish it. I am satisfied that the Landlords have obtained the necessary permits for the construction of their new home and have taken reasonable steps to obtain a demolition permit.
7. The residential complex contains fewer than five residential units and the demolition was not ordered to be carried out under the authority of any other Act. Therefore, the Landlords are required to compensate the Tenant in an amount equal to one month's rent by the termination date or offer the Tenant another rental unit acceptable to the Tenant. The Landlords paid the Tenant the required compensation by the termination date in the N13 notice of termination.

Daily Compensation

8. Based on the monthly rent, the daily compensation is \$98.63. This amount is calculated as follows: $\$3,000.00 \times 12$, divided by 365 days.
9. The Tenant was required to pay the Landlords \$18,197.26 in daily compensation for use and occupation of the rental unit for the period from February 12, 2024, to August 13, 2024 (6 rental periods plus two days). The Landlords submitted that the Tenant has paid five months of rent during that period. As such the Tenant shall pay the Landlords the remaining \$3,197.26 in daily compensation and \$98.63 per day for the use of the unit starting August 14, 2024, until the date the Tenant moves out of the unit.
10. I note that order LTB-L-029827-24 issued on August 14, 2024, ordered the Tenant to pay arrears of rent for the same period. The Tenant only needs to pay the amount outstanding to the Landlord once and doing so will satisfy both orders.
11. The Landlords incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
12. At the hearing the Landlords submitted that they are not in possession of a last month's rent deposit. However, I note that the Landlords' application states that they are, and order LTB-L-029827-24 found that the Landlords are in possession of a last month's rent deposit. In light of the previous Board finding that the Landlords are in possession of a last month's rent deposit I find that the issue has already been determined.

Relief From Eviction

13. 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. The Landlords have been waiting to start construction on their new home for a significant period and the Tenant did not attend the hearing to provide any evidence regarding relief from eviction.

It is ordered that:

1. The tenancy between the Landlords and the Tenant is terminated. The Tenant must move out of the rental unit on or before September 7, 2024.
2. If the unit is not vacated on or before September 7, 2024, then starting September 8, 2024, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
3. Upon receipt of this order, the Court Enforcement Office (Sheriff) is directed to give vacant possession of the unit to the Landlords on or after September 8, 2024.
4. The Tenant shall pay to the Landlords \$3,197.26, which represents unpaid compensation for the use of the unit from February 12, 2024 to August 13, 2024.
5. The Tenant shall also pay the Landlords compensation of \$98.63 per day for the use of the unit starting August 14, 2024 until the date the Tenant moves out of the unit.
6. The Tenant shall also pay to the Landlords \$186.00 for the cost of filing the application.
7. If the Tenant does not pay the Landlords the full amount owing on or before September 7, 2024, the Tenant will start to owe interest. This will be simple interest calculated from September 8, 2024 at 7.00% annually on the balance outstanding.
8. The Landlords shall apply the last month's rent deposit to the last month of the tenancy and pay the Tenant any outstanding interest on the deposit.

August 27, 2024
Date Issued

Amanda Kovats
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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on March 8, 2025 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.