



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

**Citation:** Ni v Fahmy, 2024 ONLTB 62555

**Date:** 2024-08-23

**File Number:** LTB-L-008750-24

**In the matter of:** ROOM 2A OF BASEMENT UNIT, 57 HURON ST  
TORONTO ON M5T2A6

**Between:** Xiao hong Ni Landlord

**and**

Sayed M. Fahmy Tenant

Xiao hong Ni (the 'Landlord') applied for an order to terminate the tenancy and evict Sayed m. Fahmy (the 'Tenant') because:

- the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation for at least one year.

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 August 14, 2024.

Only the Landlord's Legal Representative, Yun tao Li, and the Landlord attended the hearing. Yu Wei Ni ('YN') testified on behalf of the Landlord. Also present at the hearing was Jin heoi Li, who interpreted for the Landlord.

As of 10:23am, 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.

**It is determined that:**

1. For the reasons that follow, I find that the Landlord in good faith requires possession of the rental unit for the purpose of residential occupation. Therefore, the Tenant must vacate the rental unit by September 3, 2024.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On December 22, 2023, the Landlord gave the Tenant an N12 Notice of Termination ('N12 Notice') with a termination date of February 29, 2024 by sending a copy by courier, which was deemed served on December 27, 2023. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by her daughter.

4. YN is the Landlord's daughter. She testified that she is currently staying with her in-laws and has been living there with her husband and her children for two to 3 years. She testified that recently, her sister-in-law and her family also moved in, resulting in limited space for everyone. She testified that where they are currently living is a 20-minute walk to her daughter's school, but the rental unit is only a few minute walk as it is just down the street from the rental unit.
5. YN testified that herself and her family will be living in the entire 4-bedroom basement unit and the other three tenants have already vacated. She intends to live there at least until her daughter graduates, which will be at least one year.
6. Based on the uncontested evidence of YN, I find, on a balance of probabilities, that the Landlord in good faith requires possession of the rental unit for the purpose of her daughter's residential occupation for at least one year.

### *Compensation*

7. Section 48.1 of the Act requires a landlord to compensate a tenant in an amount equal to one month's rent if the landlord, in good faith, requires the rental unit for the purpose of residential occupation. Section 55.1 of the Act requires that this compensation is to be provided no later than the termination date specified in the notice of termination of the tenancy given by the Landlord.
8. The Landlord testified that she paid the Tenant the required compensation by way of waiving the rent for January 2024. The Tenant was notified of this by a text message sent by the Landlord's son. While the Tenant had sent the Landlord an e-transfer for the rent for January 2024, the Landlord did not accept the e-transfer and the e-transfer expired on January 30, 2024.
9. Based on the uncontested evidence of the Landlord, I am satisfied, on a balance of probabilities, that the Landlord provided the Tenant with one month's rent for the compensation required pursuant to section 48.1 of the Act.

### *Section 83*

10. 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 Tenant did not attend the hearing to present evidence or submissions in support of granting relief from eviction. In contrast, YN testified that there are too many people living in the house where her family is currently staying and they require more space.

### **It is ordered that:**

1. The tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before September 3, 2024.
2. If the unit is not vacated on or before September 3, 2024, then starting September 4, 2024, the Landlord 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 Landlord on or after September 4, 2024.
4. The Landlord owes \$871.70 which is the amount of the rent deposit and interest on the rent deposit.
5. If the Landlord does not pay the Tenant the full amount owing on or before September 4, 2024, the Landlord will start to owe interest. This will be simple interest calculated from September 5, 2024 at 7.00% annually on the balance outstanding.

**August 23, 2024**

**Date Issued**

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Candace Aboussafy

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 of the Tenant expires on March 4, 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.