



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

Citation: Durowoju v Belward, 2024 ONLTB 21573

Date: 2024-04-02

File Number: LTB-L-070591-23

In the matter of: 1461 BUDAPEST CRT
Windsor ON N9G3E4

Between: Raubil Durowoju Landlords
Folayemi Durowoju

And

Jason Belward Tenants
Sabrina Mancini
Kristine Campbell

Raubil Durowoju and Folayemi Durowoju (the 'Landlords') applied for an order to terminate the tenancy and evict Jason Belward, Sabrina Mancini and Kristine Campbell (the 'Tenants') because:

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

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

This application was heard by videoconference on March 18, 2024.

The following attended the hearing:

- Landlords' Legal Representative Tim Currie
- The Landlords
- Tenants' Legal Representative John Kulikowski
- Tenants Jason Belward and Kristine Campbell

Determinations:

1. As explained below, the Landlords have proven on a balance of probabilities the grounds for termination of the tenancy and the claim for compensation in the application. Therefore, the Tenancy is terminated effective June 30, 2024.
2. The Tenants were in possession of the rental unit on the date the application was filed.

N12 Notice of Termination – Landlord’s own use

3. On August 22, 2023, the Landlords gave the Tenants an N12 notice of termination deemed served August 27, 2024 with the termination date of October 31, 2023. The Landlords claim that they require vacant possession of the rental unit for the purpose of their own residential occupation.

Good faith

4. The N12 was served pursuant to section 48 of the *Residential Tenancies Act, 2006* (the “Act”). Section 48(1) requires that, in order to be successful in this application, the Landlords must establish that at the time of the service of the N12 Notice, the Landlords required, in good faith, the unit for their residential use for a period of at least one year.
5. In *Feeney v. Noble*, 1994 CanLII 10538 (ON SC), the Court held that the test of good faith is genuine intention to occupy the premises and not the reasonableness of the Landlord’s proposal. This principle was upheld in *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC) where the Court held that the “good faith” requirement simply means that the Landlord sincerely intends to occupy the rental unit.
6. The Landlord Folayemi Durowoju (FD) testified that she moved to Africa in 2019 and the Landlords began renting out the property. She testified that she now wants to come back to Canada to be near to her children and grandchildren and to move into the rental unit.
7. She testified that she spoke with the Tenant Jason Belward (JB) in approximately February 2023 and informed him that she intended to return to Canada. He requested that she allow them to stay in the rental unit until the end of the school year.
8. The Tenants’ Legal Representative suggested that the Landlords had served the N12 notice because the Tenants had previously fallen into arrears. FD stated that there had been a period that the Tenants had fallen behind in their rent, but they had reached a payment agreement and the Tenants were no longer in arrears.
9. Based on the evidence, I find that the Landlords in good faith require possession of the rental unit for the purpose of residential occupation by the Landlord FD for a period of at least one year.

10. The Landlords have compensated the Tenants an amount equal to one month's rent by October 31, 2023.

Daily compensation, rent deposit

11. The Tenants were required to pay the Landlords \$10,405.58 in daily compensation for use and occupation of the rental unit for the period from November 1, 2023 to March 18, 2024.
12. Based on the Monthly rent, the daily compensation is \$74.86. This amount is calculated as follows: \$2,277.00 x 12, divided by 365 days.
13. The Landlords collected a rent deposit of \$2,250.00 from the Tenants and this deposit is still being held by the Landlords. Interest on the rent deposit, in the amount of \$104.83 is owing to the Tenants for the period from October 31, 2020 to March 18, 2024.
14. In accordance with subsection 106(10) of the *Residential Tenancies Act, 2006*, (the 'Act') the last month's rent deposit shall be applied to the rent for the last month of the tenancy.

Relief from eviction

15. 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 not be unfair to postpone the eviction until June 30, 2024 pursuant to subsection 83(1)(b) of the Act.
16. JB, Kristine Campbell (KC), and KC's granddaughter reside in the rental unit.
17. KC testified that she has sole custody of her eight-year-old granddaughter. She stated that her granddaughter is now attending public school after a placement at a treatment centre to determine her special needs requirements. KC stated that her granddaughter has a learning disability and other conditions. She has an Individualized Educational Plan to assist her in the public school system.
18. KC testified that she is unsure how long it would take to find alternative accommodations but requested that an eviction be delayed until the end of the school year in June.
19. The Landlords had no issue with a delay to June 30, 2024 to allow KC's granddaughter to finish the school year.

It is ordered that:

1. The tenancy between the Landlords and the Tenants is terminated as of June 30, 2024. The Tenants must move out of the rental unit on or before June 30, 2024.

2. The Tenants shall pay to the Landlords \$8,050.75, which represents compensation for the use of the unit from November 1, 2023 to March 18, 2024, less the rent deposit and interest the Landlords owe on the rent deposit.
3. The Tenants shall also pay the Landlords compensation of \$74.86 per day for the use of the unit starting March 19, 2024 until the date the Tenants move out of the unit.
4. Any amounts that the Tenants have paid to rent due from November 1, 2023 to March 18, 2024 shall be offset against the foregoing amounts.
5. If the Tenants do not pay the Landlords the full amount owing on or before April 13, 2024, the Tenants will start to owe interest. This will be simple interest calculated from April 14, 2024 at 7.00% annually on the balance outstanding.
6. If the unit is not vacated on or before June 30, 2024, then starting July 1, 2024, the Landlords may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
7. 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 July 1, 2024.

April 2, 2024

Date Issued

Margo den Haan

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 January 1, 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.

