



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

**Citation:** Hudec v Lucier, 2024 ONLTB 22063

**Date:** 2024-03-26

**File Number:** LTB-L-058553-23

**In the matter of:** 1128 BELLEPERCHE PL WINDSOR  
ON N8S3C5

**Between:** Christopher Hudec Landlord

**And**

Joe Lucier Tenant

Christopher Hudec (the 'Landlord') applied for an order to terminate the tenancy and evict Joe Lucier (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.

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

The Landlord, the Landlord's Legal Representative, John Muresan, and the Tenant attended the hearing.

**Determinations:**

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the tenancy is terminated as of May 31, 2024 if the Landlord pays the Tenant \$1,195.00 by April 6, 2024.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On July 13, 2023, the Landlord gave the Tenant an N12 Notice of Termination ("N12 Notice") with the termination date of September 30, 2023. The Landlord claims that he requires vacant possession of the rental unit for the purpose of residential occupation by himself.

4. Pursuant to section 72(1) of the *Residential Tenancies Act, 2006* (the “Act”), the Landlord filed a declaration required stating that he intends to move into the rental unit for no less than one year.

### Compensation

5. It was undisputed that the Landlord gave the Tenant a cheque on July 13, 2023 in the amount of \$1,195.00. This amount is equal to one month’s rent and the termination date on the N12 Notice was September 30, 2023. The Tenant testified he received the cheque but did not cash it. As such, I find that the Landlord complied with the requirements of subsection 55.1 of Act, which states:

55.1 If the landlord is required to compensate a tenant under section 48.1, 49.1, 52, 54 or 55, the landlord shall compensate the tenant no later than on the termination date specified in the notice of termination of the tenancy given by the landlord under section 48, 49 or 50.

6. Given the legislative intent of the Act to compensate tenants for notices served under section 48(1) and the Landlord’s willingness at the hearing to pay the Tenant compensation immediately, I find that it would be fair to order the Landlord to pay the Tenant compensation if this application is granted.
7. The N12 Notice was served pursuant to section 48 of the Act. Section 48(1) requires that, in order to be successful in this application, the Landlord must establish that at the time of the service of the N12 Notice, the Landlord, in good faith, requires the unit for residential use.
8. 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. The Landlord may also have additional motives for selecting a particular rental unit, but this does not affect the good faith of the Landlord’s notice.”
9. In the case of *Fava v. Harrison*, 2014 ONSC 3352, the Divisional Court determined that while the motives of the Landlord are, per Salter, “largely irrelevant”, the Board can consider the conduct and motives of the Landlord to draw inferences as to whether the Landlord desires, in good faith to occupy the property.”
10. The Landlord testified that he intends to move into the rental unit to be closer to his mother who lives five streets away from the rental unit. The Landlord’s mother is 84 years old and the Landlord’s father passed away in January 2021. The Landlord has since been taking care and maintaining his parents’ home since his father’s death and assisting his mother with tasks such as bringing her food, walking her dog, and doing chores.
11. The Landlord testified his current home is 9-10 kilometers and a 15–20-minute drive away from his mother’s home. In comparison, the rental unit is a 1-minute drive away from his

mother's home and the Landlord can walk to his mother's home in 5-7 minutes from the rental unit.

12. The Tenant testified that he did not doubt the Landlord wants the rental unit back but questioned the Landlord's need for the rental unit and intention to reside in the rental unit.
13. The Tenant submitted that it would be more reasonable and easier for the Landlord's mother to move into the property the Landlord currently resides in. The Landlord currently resides in a duplex owned by his mother.
14. The Landlord explained that his mother has lived in her home since 1970 and wants to remain in her home. While he currently pays rent to his mother, the Landlord testified the property requires work and will be sold in the long run.
15. Based on the evidence me, I am satisfied on a balance of probabilities that the Landlord in good faith requires possession of the rental unit for the purpose of his own residential occupation for a period of at least one year. I accept the Landlord's evidence and given the circumstances, I did not find the Landlord's plans to move into the rental unit to be closer to his mother to be unreasonable by any standards.
16. The Tenant did not provide any evidence or proof challenging the content of the Landlord's declaration or testimony and produced nothing to substantiate his claims that the Landlord doesn't intend to occupy the unit.

### *Section 83 Considerations*

17. 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 May 31, 2024 pursuant to subsection 83(1)(b) of the Act.
18. This is a long tenancy. The tenancy commenced in 2011. The Tenant explained that the rental unit is a large house and that he has a lot of belongings that he will need to move and put in storage.
19. The Tenant acknowledged that he has not searched for alternative housing aggressively but testified that he is currently unemployed and it would be very difficult to find another rental unit that he can afford in the current housing market.
20. The Tenant requested until June 1, 2024 to vacate the rental unit. The Landlord was agreeable to postponing eviction to April 30, 2024.
21. Considering the length of the tenancy, I find it would be reasonable to allow the Tenant some additional time to find alternative housing. I am satisfied a brief delay until May 31, 2024, will not unduly prejudice the Landlord. While it may be less convenient for the Landlord to remain in his current home for another month, the Landlord has somewhere to live and is not in any danger of becoming homeless or experiencing financial hardship.

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

1. On or before April 6, 2024, the Landlord shall pay the Tenant compensation equal to one month's rent (\$1,195.00).

2. If the Landlord complies with paragraph one, the tenancy between the Landlord and the Tenant is terminated. The Tenant must move out of the rental unit on or before May 31, 2024.
3. If the unit is not vacated on or before May 31, 2024, then starting June 1, 2024, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. If the Landlord does not make the payment required in paragraph one above, the tenancy is not terminated and the Tenant does not have to vacate the rental unit.
5. 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 June 1, 2024.

**March 26, 2024**

**Date Issued**

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Vicky Liu

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 December 1, 2024 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.