



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

**Citation:** Sahafi v Coulter Tourikian, 2024 ONLTB 236

**Date:** 2024-01-16

**File Number:** LTB-L-028083-22

**In the matter of:** 434 GILPIN DR  
NEWMARKET ON L3X3K4

**Between:** Ramin Sahafi Landlords  
Fereshteh Jeldi

**And**

Catherine Coulter Tourikian Tenant

Ramin Sahafi and Fereshteh Jeldi (the 'Landlords') applied for an order to terminate the tenancy and evict Catherine Coulter Tourikian (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 Landlords also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on November 14, 2023.

The Landlord's representative, Sassan Emam, the Landlord and the Tenant attended the hearing.

**Determinations:**

1. For the reasons that follow, I am satisfied on a balance of probabilities that the Landlord in good faith requires possession of the rental unit for purpose of residential occupation by the Landlord's parents.
2. The Tenant was in possession of the rental unit on the date the application was filed.
3. On May 16, 2022, the Landlord gave the Tenant an N12 notice of termination May 16, 2022, with the termination date of July 31, 2022. in the N12 notice, the Landlord claimed that he required vacant possession of the rental unit for the purpose of residential occupation by his parents.
4. The Landlord compensated the Tenant an amount equal to one month's rent by July 31, 2022.

5. The issue to be determined is whether the Landlord “in good faith requires possession of the rental unit for the purpose of residential occupation for a period of at least one year, as per subsection 48(1) of the *Residential Tenancies Act, 2006* (the ‘Act’).
6. In the declaration dated on May 12, 2022, the Landlord’s father, Mohammed Jeldi, explained that he intends to move into and reside in the rental unit with his wife for at least a year. The parents currently live with the Landlord’s and there is a lack of privacy in this living arrangement. Therefore, they would like to move into the rental unit to have their own privacy.

### **Analysis**

7. The Tenant did not present any compelling evidence to challenge the Landlord’s intentions other than to say that the Landlord is trying to evict her based on an improper Notice as the termination date is not at the end of her fixed term lease. The Landlord provided that this is month to month tenancy and the Tenant did not provide any evidence to prove otherwise. Based on the evidence, the Tenant signed a new lease agreement with a fixed term that ends on May 31, 2022. The termination date is the last day of a rental period. Therefore, the termination date complies with the requirements of s. 48(2) of the RTA. The Tenant also relied on an email from the Landlord’s representative dated April 6<sup>th</sup>, 2022, which states that the Landlord is still deciding to sell the property or have the parents move in.
8. The Tenant also relied on the fact that the Landlord will be charging rent to their parents to show that the Landlord’s motives are to re-rent the unit. The leading case on the determination of good faith in a landlord’s own use application is *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC), [2001] O.J. No. 2792 (Div.Ct.). *Salter v. Beljinac* was decided under a similarly worded section of the previous legislation. The test is whether, on a balance of probabilities, a landlord genuinely wants the rental unit and intends to occupy the unit as a residence. The test is not whether a landlord needs the unit or whether a landlord’s desire to possess the rental unit is reasonable.
9. I may also draw inferences about the Landlord’s good faith from the Landlord’s conduct and motives (*Fava v. Harrison* 2014 ONSC 3352 (ONSC DC)). The Landlord’s evidence was that he was deliberating whether to sell the property or have the parents move in prior to serving the N12 notice, but by the time the N12 notice was served he had made the decision to have his parents move in. The Tenant’s evidence was not inconsistent with the Landlord’s evidence on this point.
10. Ultimately, the Landlord has proven his good-faith intention to have his parents move in and there is no evidence before me to suggest that Landlord served the notice in bad faith.

### **Daily compensation, NSF charges, rent deposit.**

11. The Tenant was required to pay the Landlord \$40,957.64 in daily compensation for use and occupation of the rental unit for the period from August 1, 2022, to November 14, 2023.
12. Based on the Monthly rent, the daily compensation is \$86.96. This amount is calculated as follows: \$2,645.00 x 12, divided by 365 days.
13. There is no last month's rent deposit.

**Relief from eviction**

14. The Tenant testified that she has been looking for alternative accommodations for three months but has been unable to find anything suitable. She requested that the eviction be postponed by nine months to allow her additional time to secure housing. The Tenant was provided notice on May 16, 2022, that the Landlord's parents intended to move into the rental unit. In my view, the Tenants have had sufficient time to look for and secure alternate accommodation. Having considered the circumstances, I find that it would be unfair to grant relief from eviction.

**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 January 27, 2024.
2. If the unit is not vacated on or before January 27, 2024, then starting January 28, 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 January 28, 2024.
4. The Tenant shall pay to the Landlord \$40,957.64, which represents compensation for the use of the unit from August 1, 2022, to November 14, 2023. The Landlord shall deduct from this amount any rent the Tenant has paid from the period beginning August 1, 2022.
5. The Tenant shall also pay the Landlord compensation of \$86.96 per day for the use of the unit starting November 15, 2023, until the date the Tenant moves out of the unit.
6. The total amount the Tenant owes the Landlord is \$40,957.64 minus any rent the Tenant has paid for the period beginning August 1, 2022.
7. If the Tenant does not pay the Landlord the full amount owing on or before January 27, 2024, the Tenant will start to owe interest. This will be simple interest calculated from January 28, 2024, at 7.00% annually on the balance outstanding.

**January 16, 2024****Date Issued**


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 Vinuri Sivalingam

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 July 28, 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.