



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

Citation: InterRent c/o CLV Group v Casas, 2024 ONLTB 3244

Date: 2024-01-10

File Number: LTB-L-012156-22

In the matter of: 411, 5220 LAKESHORE RD
BURLINGTON ON L7L1C6

Between: InterRent c/o CLV Group Landlord

And

Adriana Casas Tenant

InterRent c/o CLV Group (the 'Landlord') applied for an order to terminate the tenancy and evict Adriana Casas (the 'Tenant') because:

- the unit was given to the Tenant for the term of the Tenant's employment which has now ended.

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 November 23, 2023.

The Landlord's agent, J. Lloyd, the Tenant, and the Tenant's legal representative, I. Aitken, attended the hearing.

Determinations:

1. It is undisputed that the Tenant was hired in October 2020 as a "live-in property cleaner" for the Landlord. It is undisputed that the employment ended on November 2, 2021.
2. At the time the Tenant entered into her employment, she lived in a one-bedroom apartment in Hamilton.

3. In a letter of understanding submitted by the Landlord, from June 2020, it states that the Tenant's annual salary is "\$21,000.00 per year plus apartment (Market Rent: \$1000.00/month).
4. It is undisputed that the Tenant was transferred by her employer, the Landlord, from her one-bedroom apartment in Hamilton to a two-bedroom apartment in Burlington. It is not clear from the evidence exactly when that occurred.
5. The Landlord's agent, J. Lloyd (JL), submitted into evidence an "occupied premises agreement" signed by the Landlord and the Tenant in October 2020. The agreement governs "the use and occupation of the premises" located at the Tenant's current address, the current rental unit. In the agreement, the parties agree that the premises are occupied by the Tenant in order to aid her to "best fulfill the responsibilities of the job description." The agreement states that the market value of the apartment is \$1,000.00, of which 50% is a taxable benefit, and the apartment includes heat, hot water, water, fridge, stove, parking. The agreement states that the tenancy terminates on the day on which employment is terminated, and that the employee/Tenant shall vacate the provided unit one week after the termination of the employment. The agreement does not have a clause contemplating the employee/Tenant remaining in the unit after the end of the employment. There is a clause that contemplates the employee/Tenant paying market rent if they are on unpaid leave for longer than seven days, provided they return to work.
6. Although neither the Landlord nor the Tenant provided evidence about when the move from Hamilton to Burlington occurred, it appears to have occurred soon after the Tenant commenced working for the Landlord in June of 2020.
7. JL was not involved with preparing or signing any of the documents, and she did not have personal knowledge of the Tenant's employment.
8. JL said that the rental unit is not specifically marked as a 'super unit', and she said that she is unaware of what the plans are for the unit once it is vacated by the Tenant.
9. The Tenant said that she was very highly regarded in her employment, and she sought to move up to an administrative position. She said that her managers told her that the Landlord would help her move up if she remained a cleaner for one more year, and they transitioned her to a rental unit in Burlington. She said that she was still working as a cleaner when she was moved to her current rental unit in Burlington.
10. It is undisputed that there is no documentary evidence of the terms of employment after the Tenant's transition to Burlington. She said that she was placed in her current rental unit, and her pay was increased. The Tenant said that she was given a bigger unit in Burlington than in Hamilton because she had to house her daughter after her daughter had a mental health crisis.
11. The Tenant said that her daughter has been living with her until recently, when her daughter moved to stay with the Tenant's mother temporarily to provide the Tenant with a break from the stress of care-giving.

12. The Tenant said that she almost immediately began to pay \$1,000.00 per month rent to the Landlord upon the termination of her employment in November 2021. She said that she has been paying her rent every month since then, and she is not currently in arrears.
13. The Tenant said that she found another job, working for Immigration/Citizenship Canada, processing applications for international students and approving work permits. She said that she is currently awaiting an assignment abroad, but her son has come to stay in the rental unit in order to look after it when the Tenant is away. She said that her son can only stay in the rental unit until April. She said that her daughter is due to return to the rental unit on January 15, 2024.
14. The Tenant said that she must remain in the rental unit because she requires a 2 bedroom unit in order to continue to look after her daughter. She said that her yearly income is \$50,821, which leaves her with a monthly amount of \$2,987.00 after tax. She said that her main expenses besides rent and food are her car, insurance, hydro and internet, totalling about \$850.00 to \$900.00 per month.
15. The Tenant said that she currently carries out her job from home, but her employer has told her that there will soon be hybrid conditions where some of her work will be carried out in an office. She did not provide any more specific evidence about where the work would be located, nor when she would have to work in a different location.
16. The Tenant said that she has looked for alternative housing, but there is nothing comparable to where she is living for less than \$2,000.00 or \$3,000.00 per month.
17. The Landlord submits that subsection 58(1)3 of the *Residential Tenancies Act, 2006* (the 'Act') permits a Landlord/employer to terminate a tenancy under these specific conditions, wherein a rental unit is provided as part of a Tenant's employment. The Landlord submits that section 83 of the Act is clear that a Tenant's circumstances can be taken into account in order to postpone an eviction, but there would only be very rare and extraordinary circumstances wherein eviction would be refused completely. The Landlord submits that the Landlord/employer terminated the employment in November 2021, and the Tenant's refusal to vacate has prohibited the Landlord having access to re-rent the unit for over two years, and the Tenant has had two years to find alternative accommodation. The Landlord submits that the Tenant's employment is carried out remotely, and she could choose to live anywhere.
18. The Tenant submits that eviction should be denied. The Tenant submits that even if refusal to grant eviction is an extraordinary remedy, it is nevertheless within a Member's discretion to deny eviction after a consideration of the circumstances pursuant to section 83 of the Act. The Tenant submits that eviction is severely prejudicial to her, and the prejudice to the Landlord is minimal, as the Tenant has paid, and continues to pay, rent on a monthly basis, and the Landlord has no specific reason to re-possess the rental unit.

Reasons and Analysis:

19. Subsection 58(1)3 of the Act provides that a landlord may terminate a tenancy if the tenant was an employee of an employer who provided the tenant with the rental unit during the tenant's employment and the employment has terminated.
20. It is undisputed that the Tenant was an employee of the Landlord. The rental unit was rented to the Tenant for the term of the Tenant's employment which has now ended. All the documentary evidence, as well as the testimony, support the Landlord's reliance upon subsection 58(1)3 of the Act to terminate the tenancy.
21. The Tenant seeks to have the Board deny eviction because, even though her employment has ended, she has continued to pay the "market rent" for the unit, and she is not currently in arrears. In addition, the Tenant submits that her circumstances are such that it would not be unfair to deny eviction. She submits that she requires a 2 bedroom unit in order to continue caring for her daughter, and she is unable to afford a comparable unit elsewhere. She also submits that the prejudice of eviction is much greater to her than to the Landlord who does not have specific and immediate plans for the rental unit.
22. The Landlord seeks eviction since the rental unit was provided to the Tenant as a condition of her employment, and the employment has ended. The Landlord submits that the Tenant's circumstances may justify postponing the eviction, but they do not support exercising my discretion to impose an extraordinary remedy such as denying the eviction all together.
23. While it is undeniable that denying eviction all together is a remedy open to me pursuant to subsection 83(1)(a) of the Act, I find that the circumstances presented here are not so extraordinary as to support a denial of eviction, as discussed below.
24. In most cases before the Board, subsection 83(1)(a) of the Act would be a remedy selected by a Member when they have made a determination, for example, that a landlord has proved an application for substantial interference with reasonable enjoyment by the Tenant, and the Member imposes a conditional order for the Tenant to refrain from the substantial interference in the future, rather than imposing an order that calls for immediate eviction. Or applying it when a landlord has proved that a certain amount of arrears are due, but the Member determines that it is appropriate to impose a payment plan giving the tenant much longer to pay the arrears, given the disclosed circumstances of all the parties. In other words, in situations where the Member determines that an order with certain conditions, rather than an order to evict, would make the landlord whole again, and those conditions would also ensure that the tenancy can be made viable again.
25. Such considerations are not appropriate in this case. There is no "fault" on the part of the Tenant, nor is any other breach of the Act alleged to make the tenancy unviable. The Tenant has not behaved in a manner to warrant any particular notice of termination, except for the N8 notice of termination that was served because the rental unit was only available

as a condition of employment, and the employment ended. The Tenant has merely ceased being employed by the Landlord, and it is not disputed that the rental unit was provided in conjunction with her employment.

26. Other extraordinary circumstances for me to consider in order to deny eviction all together, may encompass issues such as a very long term tenancy of decades, or a Tenant who suffers from a disability or health condition, that would make it almost impossible to find another suitable unit that caters to their particular circumstances. None of those types of circumstances were disclosed here.
27. In fact, the primary circumstances disclosed by the Tenant to support her request for denial of eviction all together, were a limited budget and the need to care for her daughter. There was no documentary evidence of exactly what condition the Tenant's daughter suffers from, nor why the Tenant must become her daughter's full-time caregiver and provider of housing. There was no documentary evidence of the daughter's financial situation.
28. I find that the Tenant's evidence does not disclose sufficiently extraordinary circumstances such as those mentioned in paragraph #26 above, that would support my employing subsection 83(1)(a) of the Act to deny eviction all together. The Tenant has only lived in the rental unit for approximately 2 ½ years, 2 years of which the Tenant was no longer an employee of the Landlord. She has not provided any evidence at all of a particular need to remain in that particular location or in that particular unit because of health requirements, or proximity to health or medical supports, or because of any medical or other necessary appliances or devices contained within the rental unit or residential complex.
29. While it is true that the occupied premises agreement and the letter of understanding both state a notional "market rent" for the unit, the amount of \$1,000.00 appears to have been listed more as a tax convenience for both parties, rather than as an accurate or exact figure to represent the market valuation of the unit. Neither document provides the option of continuing to live in the rental unit once employment has ended. In fact, the occupied premises agreement specifically states that the "employee shall vacate the employer provided premises within one week after termination of employment, or later, as determined at the sole discretion of the employer." The employer never permitted the Tenant to remain more than one week after employment. When the Tenant did not vacate the rental unit, the Landlord lawfully served the N8 notice of termination that had a termination date of April 30, 2022.
30. Consequently, I find that, after considering all the circumstances above, there is no basis to deny the eviction. However, I find that there are circumstances that support application of subsection 83(1)(b) of the Act, a postponement of the eviction.
31. Based on the Monthly rent, the daily compensation is \$32.88. This amount is calculated as follows: \$1,000.00 x 12, divided by 365 days.

- 32. The Landlord incurred costs of \$186.00 for filing the application and is entitled to reimbursement of those costs.
- 33. There is no last month's rent deposit.
- 34. 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)(a) of the Act. While the Tenant has, indeed, had over two years to find alternative accommodation, I find that given the Tenant's limited budget and her difficult situation with caring for her daughter, it would not be unfair to give her a bit more time to find an alternative place to live, pursuant to subsection 83(1)(b).

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 March 31, 2024.
- 2. If the unit is not vacated on or before March 31, 2024, then starting April 1, 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 April 1, 2024.
- 4. If the Tenant does not move out on or before March 31, 2024, the Tenant shall also pay the Landlord compensation of \$32.88 per day for the use of the unit starting April 1, 2024, until the date the Tenant moves out of the unit.
- 5. The Tenant shall also pay to the Landlord \$186.00 for the cost of filing the application.
- 6. If the Tenant does not pay the Landlord the full amount owing on or before March 31, 2024, the Tenant will start to owe interest. This will be simple interest calculated from April 1, 2024 at 7.00% annually on the balance outstanding.

January 10, 2024

Date Issued

Nancy Morris

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.

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

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