



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

**Citation:** 2826772 Ontario Inc v Whiteside, 2023 ONLTB 77069

**Date:** 2023-11-30

**File Number:** LTB-L-042588-23

**In the matter of:** 8, 448 GEORGE ST N  
PETERBOROUGH ON K9H3R7

**Between:** 2826772 Ontario Inc Landlord

**And**

Alysha Whiteside Tenant

2826772 Ontario Inc (the 'Landlord') applied for an order to terminate the tenancy and evict Alysha Whiteside (the 'Tenant') because:

- the Landlord requires vacant possession of the rental unit in order to do major repairs or renovations to the unit.

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 16, 2023.

Only the Landlord's Legal Representative Evgeny Aptekar attended the hearing.

As of 11:11 a.m., 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.

**Determinations:**

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy in the application. Therefore, the application will be granted.

2. The rental unit is within an approximate 100 year old, three story building. The ground level has three commercial units and the top two levels have a total of 9 rental units with mixed bedroom units ranging in various sizes.
3. The Landlord served the Tenant with an N13 notice to end your tenancy (the 'N13 notice') on March 3, 2023. The N13 notice gave a termination date of July 31, 2023 and indicates that the Landlord intends do repairs or renovations so extensive that they are required to get a building permit and the rental unit must be vacant to do the work.
4. The Tenant was in possession of the rental unit on the date the L2 application was filed with the Board.
5. The Landlord is required under the *Residential Tenancies Act, 2006* (the 'Act'), to compensate the Tenant an amount equal to three months rent or offer the tenant another rental unit acceptable to the Tenant.
6. The Landlord's Legal Representative submits that it has provided three month's rent in compensation to the Tenant pursuant to section 52(1) of the *Act*. A cheque issued on July 20, 2023 in the amount of \$3,035.34 was sent to the Tenant by registered mail but was unclaimed by the Tenant and subsequently returned to the Landlord.
7. The Landlord's witness, Ruth Vachon testified that she and administrative staff of the Landlord had email communications with the Tenant reminding the Tenant to go to Canada Post to pick up the compensation package. The Tenant responded to those email communications which contained the subject line saying the compensation cheque was ready for pick up.
8. I am satisfied that the Landlord did provide the Tenant with a cheque to cover three months' rent for compensation required for the N13 notice by providing a cheque to the Tenant on July 20, 2023. I further find that by doing so, the Landlord has satisfied the requirements under section 52(2) of the *Act* that they "compensate" the Tenant, notwithstanding that the Tenant did not cash the cheque as it went unclaimed.
9. At the hearing, the Landlord's witness, Marc Chiasson ('MC') testified that the Landlord genuinely intends to do repairs or renovations so extensive that they are required to get a building permit and the rental unit must be vacant to do the work.
10. MC submits that as a partner with Atriacon Construction Management Company, the Landlord intends to perform the following construction activities to the rental units, including the Tenant's rental unit:
  - New kitchen and bathroom;
  - New heating and cooling mechanical systems;
  - Upgrading existing ABS plumbing pipes to system 15 PVC;

- Laundry facilities introduced into each unit;
- Electrical components being modernized and upgraded;
- Roof systems being re-installed;
- New flooring throughout the bathroom, kitchens and living rooms;
- Fire separations being brought up to Code within units as well as exit corridors and various fire alarm deficiencies;
- Acoustical separations being improved;
- Inefficient unit layouts being improved upon;
- Building security system being installed; and • Building receiving upgraded insulation treatment.

11. A number of photographs were tendered at the hearing which depicts the extent and scope of work being performed in another unit within the residential complex but which work was anticipated to be undertaken for the Tenant's unit including that the walls were taken down to the studs, walls were added, the bathroom was gutted, new plumbing installed, new ductwork installed, walls were being prepared for new spray foam insulation, and plumbing and electrical were being installed for new laundry facilities within the units.
12. A copy of a building permit no 23-102651 9A issued by the City of Peterborough on August 21, 2023 grants permission for the Landlord to renovate the residential complex in accordance with the application filed. A number of drawings were also tendered at the hearing including electrical drawings, mechanical drawings, and architectural drawings which all depicted the scope of work planned for the residential complex and the units.
13. The Landlord's Legal Representative tendered into evidence correspondence from MCW Consultants Ltd. dated November 1, 2023 confirmed that in their "professional opinion, the mechanical and electrical renovations...are required to be made in unoccupied spaces. The construction manager will require vacant possession to perform the work".
14. The Landlord's Legal Representative tendered into evidence correspondence dated November 6, 2023 from A & Architects Inc. stating that "the construction team will require these spaces to be vacant in order to carry out the necessary work".
15. The Landlord's Legal Representative also states that as a result of a fire inspection on August 15, 2023, an Inspection Order has been issued stating that the Landlord must complete listed actions, including installing fire separations, by no later than October 31, 2023. If the Landlord does not comply with the Order, the Landlord may be subject to large daily fines. A copy of the Inspection Order was tendered into evidence.
16. Based on the uncontested evidence and submissions before me, I am satisfied that the Landlord has obtained the necessary permits for this work and that the Landlord has established that the Landlord in good faith intends to perform repairs or renovations so

extensive that they are required to get a building permit and the rental unit must be vacant to do the work.

*Relief from eviction:*

17. The Landlord’s Legal Representative and witnesses were unaware of any factors to consider with respect to relief from eviction. 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*.

18. This order contains all of the reasons in this matter and no further reasons will be issued.

**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 December 11, 2023.
2. The Landlord shall provide to the Tenant a new cheque in the amount of three months’ rent as compensation for the N13 notice by no later than December 11, 2023.
3. If the unit is not vacated on or before December 11, 2023, then starting December 12, 2023, the Landlord may file this order with the Court Enforcement Office (Sheriff) so that the eviction may be enforced.
4. 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 December 12, 2023.
5. The Tenant shall also pay the Landlord compensation of \$33.26 per day for the use of the unit starting November 17, 2023 until the date the Tenant moves out of the unit.

**November 30, 2023**

**Date Issued**

Heather Chapple

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 June 12, 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.

