



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

Citation: Pietrangelo v Reeves, 2023 ONLTB 73096

Date: 2023-11-06

File Number: LTB-L-005332-22

In the matter of: 41 COMPTON CRES
NORTH YORK ON M3M2C3

Between: Antonio Pietrangelo Landlord

And

Shantal Reeves Tenant

Antonio Pietrangelo (the 'Landlord') applied for an order to terminate the tenancy and evict Shantal Reeves (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 Landlord also claimed compensation for each day the Tenant remained in the unit after the termination date.

This application was heard by videoconference on June 21, 2023. The Landlord, Landlord's legal representative C. Williams and the Tenant attended the hearing. The Tenant received the services of Tenant Duty Counsel (TDC) prior to the hearing.

Determinations:

1. As explained below, the Landlord has 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 November 30, 2023.
2. The Tenant was in possession of the rental unit on the date the application was filed.

N12 Notice of Termination-Landlord's Own Use

3. On January 23, 2022, the Landlord gave the Tenant an N12 notice of termination deemed served on January 28, 2022 by regular mail with the termination date of March 31, 2022. The Landlord claims that they require vacant possession of the rental unit for the purpose of residential occupation by themselves.

Good faith

4. The Landlord testified that he is 78 years old and can no longer handle the stairs in his current 2-storey home in North York. He seeks to occupy the rental premises because it is a bungalow and is much more suited to his needs in his later years. His life partner will live in the unit with him. His adult children who currently live with him in his home will continue

to live in that home when he moves. He testified that he will live in the unit for at least one year.

5. The Tenant testified that she called property standards in 2021 and 2022 and believes that the Landlord has served the N12 notice in retaliation. She testified that at one point the Landlord told her he could rent the unit for \$5,000.00. The Tenant did not recall any dates or provide supporting documentation to support her assertions. She testified that the Landlord should select a different property to occupy because he owns many properties and houses. She requested 1 year to move out of the unit if the tenancy is terminated because she is widowed and will need help to move. She has one teenaged dependant child and an adult child who is in university. Her parents live in Whitby and they could possibly stay with her parents short term until she secures alternate living accommodations.

Analysis

6. The issue to be determined by the Board is whether the Landlord has satisfied the “good faith” requirement set out in subsection 48(1) of the Residential Tenancies Act, 2006, (the 'Act') which provides: a landlord may, by notice, terminate a tenancy if the landlord in good faith requires possession of the rental unit for the purpose of residential occupation by,

(a) the landlord

(b) the landlord's spouse

(c) a child or parent of the landlord or the landlord's spouse;

7. In the leading case law involving a landlord's own use application, *Salter v. Beljinac*, [2001], O.J. No. 2792 (Div. Ct.). the Divisional Court held that: the test of good faith is genuine intention to occupy the premises and not the reasonableness of the landlord's proposal...
8. Since this is the Landlords' application, the Landlord bears the burden of proving, on a balance of probabilities, that they intend to move into the premises for a period of at least one year.
9. Based on the evidence before me, I am satisfied on a balance of probabilities that the Landlord intends to move into the unit for a period of at least one year. I found the Landlord's responses sincere and direct when questioned about his intentions. Therefore, I am satisfied that the Landlord's intentions are bona fide and that 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.
10. The Landlord has compensated the Tenant an amount equal to one month's rent by March 31, 2022

Daily compensation and rent deposit

11. The Tenant was required to pay the Landlord \$23,513.42 in daily compensation for use and occupation of the rental unit for the period from April 1, 2022 to June 21, 2023.

12. Based on the Monthly rent, the daily compensation is \$52.60. This amount is calculated as follows: \$1,600.00 x 12, divided by 365 days.
13. The Landlord collected a rent deposit of \$1,600.00 from the Tenant and this deposit is still being held by the Landlord. Interest on the rent deposit, in the amount of \$329.45 is owing to the Tenant for the period from December 1, 2010 to June 21, 2023 .
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. The Tenant is a widow with her 2 children living with her. This is a long-term tenancy. Her parents are reasonably nearby in Whitby where she and the children can stay short term if necessary. However, I find that the length of this tenancy calls for relief beyond the standard 11 days.
16. The Landlord is currently in the home he shares with his adult children. I appreciate that his mobility issues with stairs deem his situation quite urgent, however I find that there is less prejudice to the Landlord by delaying the termination of the tenancy.
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 November 30, 2023 pursuant to subsection 83(1)(b) of the Act.

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 November 30 2023.
2. If the unit is not vacated on or before November 30, 2023, then starting December 1, 2023, 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 December 1, 2023.
4. The Tenant shall pay to the Landlord \$23,513.42, which represents compensation for the use of the unit from April 1, 2022 to June 21, 2023. Any amounts paid by the Tenant to the Landlord during the period from April 1, 2022 to June 21, 2023 shall be deducted from the amount owing.
5. The Tenant shall also pay the Landlord compensation of \$52.60 per day for the use of the unit starting June 22, 2023 until the date the Tenant moves out of the unit.
6. The Landlord owes \$1,929.45 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenant.
7. The total amount the Tenant owes the Landlord is \$21,583.98.
8. If the Tenant does not pay the Landlord the full amount owing on or before November 30, 2023, the Tenant will start to owe interest. This will be simple interest calculated from December 1, 2023 at 7.00% annually on the balance outstanding.

November 6, 2023

Date Issued

Donna Adams

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 May 18, 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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