



**Order under Subsection 135
Residential Tenancies Act, 2006**

Citation: WYATT v SHEIKH, 2023 ONLTB 73729

Date: 2023-11-09

File Number: LTB-T-076002-22

In the matter of: 629 MCCONACHIE COMMON
BURLINGTON ON L7L0E1

Tenants

Between: RACHEL WYATT
SHANE GOLDEN

And

KHADEJA SHEIKH

Landlord

RACHEL WYATT and SHANE GOLDEN (the 'Tenants') applied for an order determining that KHADEJA SHEIKH (the 'Landlord') collected or retained money illegally.

This application was heard by videoconference on October 31, 2023.

The Landlord and the Tenants attended the hearing.

Determinations:

1. The issue in this application is whether or not the Tenants were entitled to receive one month's rent as compensation because the Landlord served them with a Notice to End Tenancy Because the Landlord, a Purchaser or a Family Member Requires the Rental Unit (N12 Notice).
2. As explained below, the Landlord gave the Tenants a notice of termination under section 48 of the *Residential Tenancies Act, 2006* (the 'Act') and did not pay the Tenants the compensation required by section 48.1 of the Act. Therefore, the Landlord must pay to the Tenants \$1,800.00 representing the amount equal to one month's rent as compensation for giving the Tenants this Notice.
3. The Tenants are also entitled to \$53.00 for costs of filing the application.
4. Subsection 48(1) of the Act states:

(1) 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 for a period of at least one year by,

(a) the landlord;

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(b) the landlord's spouse;

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

(d) a person who provides or will provide care services to the landlord, the landlord's spouse, or a child or parent of the landlord or the landlord's spouse, if the person receiving the care services resides or will reside in the building, related group of buildings, mobile home park or land lease community in which the rental unit is located.

5. Section 48.1 of the Act states:

A landlord shall compensate a tenant in an amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if the landlord gives the tenant a notice of termination of the tenancy under section 48. Emphasis Added

6. There was no dispute that on May 1, 2021, the Landlord served the Tenants an N12 Notice via email with a termination date of June 30, 2021 stating that the Landlord's child intends to move into the rental unit and occupy it for at least one year.

7. The Tenants testified that after receiving the N12 Notice they immediately began looking for another unit and on May 5, 2021 they signed a new tenancy agreement for another unit and vacated on June 30, 2021.

8. The Landlord testified, and there was no dispute, that on May 14, 2021 she emailed the Tenants to advise that "her son changed his mind and confirmed that the doesn't wasn't to move in for now... so, if you guys want, you can stay on a monthly basis."

9. Regardless of this change of circumstance, in accordance with section 48.1 of the Act a Landlord is required to compensate a tenant an amount equal to one month's rent once a notice of termination is given. There was no dispute that the Landlord gave the Tenants an N12 Notice pursuant to section 48 of the Act. Consequently, I find that the Landlord has illegally retained compensation owed to the Tenants.

It is ordered that:

1. The total amount the Landlord shall pay the Tenants is \$1,853.00. This amount represents:
 - o \$1,800.00 for the compensation owing. o
 - \$53.00 for the cost of filing the application.
2. The Landlord shall pay the Tenants the full amount owing by November 20, 2023.
3. If the Landlord does not pay the Tenants the full amount owing by November 20, 2023, the Landlord will owe interest. This will be simple interest calculated from November 21, 2023 at 7.00% annually on the balance outstanding.

File Number: LTB-T-076002-22

November 9, 2023

Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

Lisa Del Vecchio
Member, Landlord and Tenant Board

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.