



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

**Citation:** Ramprashad v Salaamah, 2023 ONLTB 62691

**Date:** 2023-09-14

**File Number:** LTB-L-064249-22

**In the matter of:** 6 KENMARK BLVD  
SCARBOROUGH ON M1K3N7

**Between:** Sherin Ramprashad Landlord

**And**

Eimraan Salaamah Tenants  
Siddeqah Salaamah  
Zahir Salaamah  
Muhammad Sahadath  
Azipha Mohammed Sahadath

Sherin Ramprashad (the 'Landlord') applied for an order to terminate the tenancy and evict Eimraan Salaamah, Siddeqah Salaamah, Zahir Salaamah, Muhammad Sahadath and Azipha Mohammed Sahadath (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 Tenants remain in the unit after the termination date.

This application was heard by videoconference on April 19, 2023.

The Landlord and the Tenants Zahir Salaamah and Azipha Mohammed Sahadath attended the hearing.

**Determinations:**

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy the claim for compensation in the application. Therefore, the Tenants must move out by November 30, 2023.
2. The Tenants were in possession of the rental unit on the date the application was filed.
3. The rental unit is a 2-level semi-detached home with a basement unit. The Tenants occupy the upper levels of the rental property.
4. The Landlord currently resides on the other half of the semi-detached along with his parents.
5. The Landlord has compensated the Tenants an amount equal to one month's rent by December 31, 2022.

N12 Notice of Termination - Landlord's Own Use

6. On October 6, 2022, the Landlord gave the Tenants an N12 notice of termination with the termination date of December 31, 2022. The Landlord claims that he requires vacant possession of the rental unit for the purpose of residential occupation by the Landlord.
7. The Landlord testified that he, his fiancée and two children require more space. There is not enough room in their mother's home to accommodate their growing family.
8. Although the Landlord's Declaration, submitted into evidence does not state that in good faith he intends to occupy the rental unit, nor does he state the length of time he intends to live in the rental, the Landlord provided viva voce testimony that he plans to move in for 2 or 3 years until he saves enough money to buy another home closer to work.
9. The Tenants submitted that they don't believe the Landlord intends to move in because their relationship between the Tenants and the Landlord began to deteriorate.
10. The Landlord gave a previous N12 to the Tenants on July 28, 2022 with a termination date of September 30, 2022. This was dismissed because the Landlord wanted the unit for his half brother. The Landlord stated that this was the initial plan because his half brother was going through marital problems and wanted to move in.

Analysis

11. The N12 Notice was served pursuant to section 48(1)(a) of the *Residential Tenancies Act, 2006* ("Act") which states:

**48** (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

12. In the leading case law involving a landlord's own use application, *Salter v. Beljinac*, 2001 CanLII 40231 (ON SCDC), [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...”

13. Thus, the Landlord must establish that they genuinely intend to move into the unit. The Court also held in *Salter v Beljinac* that the Landlords' motives are “largely irrelevant”.
14. However, evidence of motive, history of the relationship between the parties and alternatives may shed light on the genuineness of the Landlord's intentions. (Fava v. Harrison [2014 ONSC 3352](#) (ONSC DC)).
15. On a balance of probabilities, I find that the Landlord in good faith requires possession of the rental unit for the purpose of their own residential occupation for a period of at least one year. I make this finding because I found the Landlord's testimony credible.

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

16. The Tenants were required to pay the Landlord \$4,818.24 in daily compensation for use and occupation of the rental unit for the period from January 1, 2023 to April 19, 2023.
17. Based on the Monthly rent, the daily compensation is \$44.20. This amount is calculated as follows: \$1,344.54 x 12, divided by 365 days.
18. 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

19. 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. This provides the Tenant and his family with time to find new living arrangements and to organize their affairs.
20. The Tenants have lived in the rental unit for 7 years and have three children. With the rising cost of living and rents it may pose difficulties to find suitable affordable accommodations.

#### **It is ordered that:**

1. The tenancy between the Landlord and the Tenants is terminated. The Tenants 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. The Tenants shall pay to the Landlord \$4,818.24, (minus any rent already paid by the Tenants from January 1, 2023 onwards), which represents compensation for the use of the unit from January 1, 2023 to April 19, 2023.
4. The Landlord owes \$1,200.00 which is the amount of the rent deposit and interest on the rent deposit, and this is deducted from the amount owing by the Tenants.
5. The total amount the Tenant owes the Landlord is \$3,618.24.
6. The Tenants shall also pay compensation for the unit starting April 20, 2023 until the Tenants moves out of the unit.
7. If the Tenants do not pay the Landlord the full amount owing on or before September 25, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 26, 2023 at 6.00% annually on the balance outstanding.

**September 14, 2023**

**Date Issued**

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Nicole Huneault

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 March 26, 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.