



**Order under Section 77(8)
Residential Tenancies Act, 2006**

Citation: Kumari v Babos, 2023 ONLTB 62725

Date: 2023-09-12 **File Number:**
LTB-L-015684-23-SA

In the matter of: 110 GLEN LONG AVE
NORTH YORK ON M6B2M5

Between: Irum Kumari Landlord

And

Maria Ivancsikne Babos Tenant

Irum Kumari (the 'Landlord') applied for an order to terminate the tenancy and evict Maria Ivancsikne Babos (the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy.

The Landlord's application was resolved by order LTB-L-015684-23, issued on May 9, 2023. This order was issued without a hearing being held.

The Tenant filed a motion to set aside order LTB-L-015684-23.

The motion was heard by videoconference on June 13, 2023.

The Landlord, the Landlord's representative Howard Tavroges, the Landlord's witness V. Langhani, the Tenant and the Tenant's son M. Ivancsikne attended the hearing.

Determinations:

1. The first issue on a motion to set aside, such as this one, is whether or not the parties entered into an agreement to terminate the tenancy.
2. It was disputed that on February 16, 2023 the Tenant and the Landlord signed an agreement to terminate the tenancy as of February 28, 2023 (Form N11). The Tenant did not move out of the rental unit by the termination date as set out in the agreement.
3. The Tenant submitted that she was tricked into signing the N11. The Tenant testified that some man came to the rental unit in February 2023 (date unspecified) and gave her the notice to sign, she thought she was signing a new lease that she had requested of the Landlord to support her claim for ODSP benefits.

4. The Landlord did not dispute that while the original tenancy commenced in January 2021, the Tenant asked for a new lease for purposes of supporting her ODSP benefit.

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A new lease for a 6-month duration was signed by the parties on February 6, 2023 for a lease commencing February 1, 2023.

5. The Landlord testified that she attended at the rental property on February 16, 2023 along with her brother and father as witnesses and signed the N11 agreement to end the tenancy. At that time, it was agreed to by the parties that the last month's rent deposit would be applied to the month of February 2023 and that the Tenant had requested two months of rent as compensation to vacate the rental unit.
6. The Tenant did not remember the meeting. She has not been paying the lawful monthly rent of \$3,112.00, the last payment received by the Landlord was for January 2023.
7. As of the date of the hearing the arrears of rent were \$12,448.00. When asked about why she had not been paying the rent the Tenant said because the Landlord had lied to her.
8. The agreement to lease between the parties as entered into the Board's record and as commencing February 1, 2023 stipulated that rent is payable on the first (1st) of each month.
9. The Tenant's allegations of the Landlord lying predate the events that give rise to the Landlord's L3 application filing, that is the payment of rent was not made on or before February 1, 2023 and the N11 was not executed until February 16, 2023.
10. For the reasons below, I am satisfied that the parties agreed to terminate the tenancy as of February 28, 2023.
11. The Landlord said she attended the rental property on February 16, 2023 and the parties mutually drafted and signed the N11 notice. The notice as submitted into the Board's record has an addendum of a handwritten page three (3) in which it is noted that the Landlord agreed to pay the Tenant two (2) months of rent, equal to \$6,224.00 in exchange for the keys to the rental unit and for vacant possession.
12. The Landlord's brother, the witness V. Langhani submitted that he attended the rental unit with his sister on February 16, 2023 to request payment of rent and that an agreement to end the tenancy was entered into without any form of coercion. The Landlord went to a copy center nearby and returned with copies of the agreement for each of the parties.

13. On review of the N11, the parties signed the document not only on page two (2) of the agreement but then again on page three (3), the page that describes the agreement of payment by the Landlord of the equivalent of two months of rent, if the Tenant vacated the rental unit.
14. The fact that the Tenant negotiated the payment of two months of rent to vacate, signed the N11 and again the addendum, I find that the Tenant ought to have known the agreement she was entering into.

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15. Based on the evidence before the Board, I have no reason to doubt the truthfulness of the Landlord's or the witness testimony, on the contrary, the Tenant provided a lack of particulars and was vague with respect to dates, events or people attending at the rental unit.
16. After considering all of the circumstances, I find that it would be unfair to set aside order LTB-L-015684-23.
17. The stay of order LTB-L-015684-23 is lifted immediately.

It is ordered that:

1. The motion to set aside Order LTB-L-015684-23, issued on May 9, 2023, is denied.
2. The stay of Order LTB-L-015684-23, is lifted immediately.
3. Order LTB-L-015684-23 is unchanged.

September 12, 2023

Date Issued

Alicia Johnson
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.