



Order under Section 77 /31 Residential Tenancies Act, 2006

Citation: MAISON CANADA HOLDINGS LTD v Ripley, 2023 ONLTB 59899

Date: 2023-09-06 **File Number:** LTB-L-019795-23
and LTB-T-019938-23

In the matter of: 703-731, 185 King St. N. Waterloo
ON N2J0E1

Between: MAISON CANADA HOLDINGS LTD Landlord

And

Mackenzie Ripley Tenant

MAISON CANADA HOLDINGS LTD (the 'Landlord') applied for an order to terminate the tenancy and evict Mackenzie Ripley (the 'Tenant') because the Tenant entered into an agreement to terminate the tenancy (**L3 Application**)

Mackenzie Ripley (the 'Tenant') applied for an order determining that MAISON CANADA HOLDINGS LTD (the 'Landlord') substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household; and harassed, obstructed, coerced, threatened or interfered with the Tenant. (**T2 Application**)

As per endorsement by the Board on June 7, 2023, the following applications were directed to be head together on July 25, 2023: LTB-L-019812-23-SA and LTB-T-020542-23 (the "**Vuicic Matters**") and LTB-L-019795-23 and LTB-T-019938-23 (the "**Ripley Matters**")

The Landlord's agent Borz Fariborzi, the Landlord's representative C. Weber, the Tenant and the Tenant's representative C. Corsetti attended the hearing.

Determinations:

1. Subsection 77(1)(a) of the Residential Tenancies Act, 2006 (the "Act") provides that a tenancy may be terminated where "the landlord and tenant have entered into an agreement to terminate the tenancy."

2. The Landlord seeks an order terminating the tenancy as a result of a Form N11 signed by the Tenant, Mackenzie Ripley (MR)
3. MR is a university student and signed a 1-year lease agreement with the Landlord on February 7, 2022, in order to lease 1 room within a 5-bedroom suite.
4. The lease commencement date is September 1, 2022. It is not disputed the Form N11 forming the subject matter of this application was signed on September 2, 2022.
5. By way of background, however, MR signed a prior Form N11 on February 7, 2022 (the February N11”) when this document was included among other lease documentation for MR to sign when the lease agreement was first presented to MR in February 2022. While not at issue in this application, on its face, the February N11 is void according to 37(4) of the Act, which provides “*a notice of termination is void if it is entered into at the time the tenancy agreement is entered into.*”
6. In the months leading up to the September 2022 move-in date, additional Form N11s were sent by the Landlord through DocuSign, but neither were signed by the Tenant.
7. Upon move-in on September 2, 2022, MR testified the Landlord’s property manager requested that MR sign a new Form N11 containing a termination date of August 27, 2023. Upon explaining she did not want to sign the Form N11, MR testified the Landlord’s agent informed that she could not move-in otherwise. MR testified she “didn’t know” what to do. Given her desire to move into the rental unit and being unable to consult anyone at the time, she testified she felt “pressured” to sign.
8. The Landlord’s property manager did not attend the hearing and was not called as a witness. The Landlord’s agent Borz Fariborzi (BF) testified there was no established policy to have the Form N11 signed, and that keys would have been provided to tenants regardless. BF further elaborating that when tenants sign a 1-year lease (as oppose to a 3-year lease), they are merely given the option to sign the Form N11.
9. Upon hearing all the evidence, I do not find there was a valid agreement to terminate the tenancy, as I do not find there has been clear agreement/consent on the part of MR. MR did not want to sign the Form N11, as evidenced in her refusal to sign the Form N11 signature when emailed through DocuSign in the months leading up to move-in, and as evidenced by her hesitation to sign the Form N11 on September 2, 2022. I found MR’s testimony credible and I do not find MR was given a reasonable opportunity to obtain independent legal representation and/or reasonable opportunity to inform herself of her rights at the time of signing the Form N11. Moreover, given the circumstances under which the Form N11 was signed – when MR was moving into the rental unit and awaiting keys - I find MR was mistakenly induced into signing the Form N11 on the basis she *had* to sign the Form N11 failing which, she would be left without housing at the last minute.

10. In the alternative, in the event there was a valid agreement, I find it would not be unfair to deny eviction under section 83 of the Act, given the circumstances in which the Form N11 was signed; and, given the Tenant's identified challenges in finding alternative accommodations.

T2 Application

11. The Tenant's application is a T2 Application, brought pursuant to s.29(1) [Residential Tenancies Act, 2006](#) (the 'Act'), and alleges that the Landlord substantially interfered with the reasonable enjoyment of the rental unit by the Tenant and harassed, obstructed, coerced, threatened or interfered the Tenant during occupancy of the rental unit.
12. The Tenant produced an email from the Landlord's agent on December 14, 2022, advising as follows:

Your lease expires on August 27, 2023. If you are interested or NOT interested in signing a lease for September 2023 please reply with your decision. Deadline to notify the office is January 31,

to which MR responded as follows, on January 11, 2023:

I am interested in resigning my lease for September 2023. I'm inquiring about making sure that my specific unit would still be available and wanted clarification on exactly how much it would cost as of next year.

13. Subsequently, on January 12, 2023 and January 25, 2023, respectively, the Landlord's agent responded that MR's "room has been rented" but that there was another room available and "starting September 2023 rent for your bedroom size is \$830".
14. MR's existing rent is \$735 and thus the new proposed rent represents an approx. 13% increase. Further troubling is the fact that MR did not want to leave her roommates and existing rental situation. In the months following, the Landlord continued to maintain that the rental unit was no longer available and that MR had agreed to terminate the agreement. MR testified the uncertainty of her housing situation has been a "stressful experience" and left her "completely shocked". She indicated the Landlord's conduct has been "confusing", "consuming" and has taken her focus away from her studies.
15. The Tenant seeks a rent abatement of 25% for 12 months, noting she gets along well with her roommates and does not want to leave the rental unit. While the Tenant did not produce any medical documentation in support of the impact upon her health, the uncertainty surrounding her future living situation - unnecessarily created by the Landlord - certainly impacted her reasonable enjoyment of the rental unit. For this reason, I find on a balance

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of probabilities that the Landlord, or the Landlord's superintendent/agent substantially interfered with the Tenant's reasonable enjoyment of the Tenant's rental unit as a result. I am awarding the Tenant a 25% abatement of rent for the months of January 2023 through to August 2023, the term end date under the lease, for a total abatement of \$1,470.00.

16. The Tenant also requested that the Landlord pay a fine. According to the Board's Interpretation Guideline 16, fines are typically only imposed where the Landlord has shown "blatant disregard" for the Act and other remedies will not provide adequate deterrence. Given the other remedies awarded, I do not find that a fine is required in the circumstances.

It is ordered that:

1. The Landlord's L3 Application is dismissed.
2. The Landlord shall pay to the Tenant \$1,470.00.
3. The Landlord shall also pay to the Tenant \$48.00 for the cost of filing the application.
4. The total amount the Landlord owes the Tenant is \$1,518.00.
5. If the Landlord does not pay the Tenant the full amount owing on or before September 17, 2023, the Tenant will start to owe interest. This will be simple interest calculated from September 18, 2023 at 6.00% annually on the balance outstanding.

September 6, 2023

Date Issued

Peter Nicholson

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.

