



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

Citation: FERRIERA v REDDIOCK, 2023 ONLTB 54396

Date: 2023-08-28

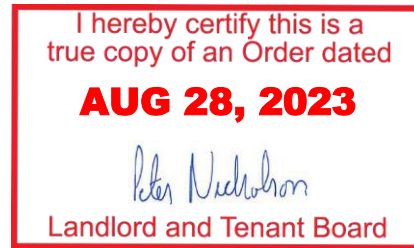
File Number: LTB-L-020131-22

In the matter of: 202, 909 DUNDAS STREET WEST
TORONTO ONTARIO M6J1V9

Between: GEORGE FERRIERA

And

ALICE REDDIOCK



Landlord

Tenant

2023 ONLTB 54396 (CanLII)

GEORGE FERRIERA (the 'Landlord') applied for an order to terminate the tenancy and evict ALICE REDDIOCK (the 'Tenant') because the Landlord requires possession of the rental unit for the purpose of residential occupation.

This application was heard by videoconference on June 28, 2023.

The Landlord, the Landlord’s witness George Rego, the Landlord’s representative G. Brown and the Tenant attended the hearing.

Determinations:

1. As explained below, the Landlord has proven on a balance of probabilities the grounds for termination of the tenancy. Therefore, the Tenant must move out of the rental unit on or before November 30, 2023.
2. The Landlord served the Tenant with an N12 notice of termination seeking termination of the tenancy for the purpose of residential occupation by the Landlord’s daughter, Chelsea Ferreira (CF).
3. The termination date in the notice (the “N12 notice”) was November 30, 2021. The Landlord has met the 60 day notice requirement of [s.48\(2\)](#) of the [Act](#), and I am satisfied the Landlord has met the declaration requirement of s.72(1)(a) of the Act and the one month’s compensation requirement of s. 48.1 of the Act.
4. The issue to be determined in this application is whether the Landlord has satisfied the “good faith” requirement set out in subsection 48(1). In *Salter v. Beljinac*, [2001 CanLII 40231 \(ON SCDC\)](#), the court clarified the Landlord’s good faith requirement as follows:

In my view, [s. 48(1)] charges the finder of fact with the task of determining whether the landlord’s professed intent to want to reclaim the unit for a family member is genuine, that is, the notice to terminate the tenancy is made in good faith. The

alternative finding of fact would be that the landlord does not have a genuine intent to reclaim the unit for the purpose of residential occupation by a family member.

5. The Landlord testified his daughter, Chelsea Ferreira (CF), has been attending university in downtown Toronto and has recently been accepted into a master's program at that same location. CF currently lives with the Landlord and the Landlord submits his daughter, CF, seeks to move into the rental unit in order to be closer to university. It was submitted that CF has familiarity with the building, as she has assisted with cleaning in the building and has seen photos of the interior of the rental unit.
6. CF's declaration notes that she will be moving into the unit *"for a minimum 1 Year period."* While it is unfortunate the Landlord's child was not in attendance to give direct evidence as to her intent and future plans, I have decided to admit the Landlord's hearsay evidence and deal with any indicia of unreliability as a matter of what weight to give that evidence.
7. The Tenant challenged the professed intent, suggesting the Landlord will try to re-rent the rental unit at a higher rate should vacant possession be provided because her rent is the lowest in the building. The Tenant further indicated the Landlord illegally attempted to increase rent in the past, most recently in 2020 when the Landlord sought to increase the rent by the guideline amount but without waiting the statutory 12-month period. Further, while the Landlord was performing repairs in the rental unit *"many years prior"*, the Landlord commented to the Tenant *"I could be getting \$1000 for your unit"*. The Tenant added there has been vacant units in the building since the service of the Form N12 which could have been used by CF. Moreover, the Tenant indicated she was told by a prior tenant in the building that the rental unit, itself, only became vacant 10 years ago because the Landlord gave a Form N12 in bad faith to the prior tenant residing in the rental unit.
8. In response, the Landlord acknowledged there have been vacant units in the building, but stated the rental unit is the only unit CF can utilize because it is the only rental unit in the building that contains an outdoor balcony area. The Landlord indicated CF has health issues and symptoms arising from CF's health issues are alleviated when she can step outside. The Landlord produced a letter from CF's treating physician, noting CF would *"benefit from immediate access to a balcony as stepping outside helps alleviate her symptoms"*. With regard to the Tenant's submission a Form N12 was served in bad faith to a prior tenant approximately 10 years prior, this allegation was denied by the Landlord. While the Landlord does bear the onus of proof in this application, the Tenant did not produce any documentation in support, nor did the Tenant produce as a witness the prior tenant who allegedly provided this information to the Tenant, or the prior tenant who allegedly was given the Form N12.
9. I find the Landlord provided a reasonable explanation in response to the Tenant's suspicions and based upon the evidence presented, I am satisfied on a balance of probabilities with the expressed intent for the rental unit.

Section 83

10. Section 83 requires that the Board consider all the circumstances in the case, including the Tenant's and the Landlord's situations, to determine if it would be appropriate to delay or deny eviction in the form of section 83 relief.
11. The Tenant indicated she lives alone and works within the area. The Tenant further noted that rental prices have increased significantly and thus, in the event eviction were ordered, the Tenant indicated she may have to leave the city in order to find accommodations.
12. The Landlord's child is currently living with the Landlord, however the Landlord's daughter was not in attendance to give direct evidence as to prejudice resulting from any delay imposed.
13. Given the noted circumstances of both parties, including the Tenant's circumstances and anticipated challenges in finding alternative accommodation, I believe it to be fair and appropriate to delay the eviction in order to give the Tenant additional time to find other accommodations.
14. I have considered all of the disclosed circumstances in accordance with [subsection 83\(2\)](#) of 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, as of November 30, 2023. 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.



August 28, 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.

In accordance with section 81 of the Act, the part of this order relating to the eviction of the Tenant expires on June 1, 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.